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# Executive Orders

## EXECUTIVE ORDER BJ 10-11

### Property Use for Emergency Berm Project for Deepwater Horizon Oil Spill Response

WHEREAS, Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, and as a result of the Deepwater Horizon Oil Spill (Oil Spill), a state of emergency (Emergency) was declared through Executive Proclamation No. 20 BJ 2010 and extended through Executive Proclamation No. 37 BJ 2010;

WHEREAS, The Emergency has been declared a Spill of National Significance (SONS) and has impacted, damaged, and continues to impact and damage Louisiana's natural resources, including land, water, fish, wildlife, fowl and other biota, and likewise has impacted and continues to impact and threaten the livelihoods of Louisiana's citizens living along the coast, increasing the economic impact of this Emergency;

WHEREAS, Pursuant to the Oil Pollution Act of 1990, the United States Coast Guard and British Petroleum America Inc. (BP), the Responsible Party, have established a Unified Area Command to coordinate efforts to control the spill and respond to its effects;

WHEREAS, The Oil Spill has already impacted miles of the Louisiana coastline and marshes, has caused fishery, oyster harvesting area, and beach closures, has resulted in the suspension of additional drilling operations, and has caused the federal government to declare a commercial fisheries failure;

WHEREAS, Many areas of the Louisiana coastline have received heavy oil and sustained catastrophic damage, including Barataria Bay, the Breton Sound, Chandeleur Sound and the barrier islands;

WHEREAS, Louisiana's coastline is comprised of 3.5 million acres of coastal wetlands, which represent approximately 40 percent of all the coastal wetlands in the Continental United States. Furthermore, billions of dollars in ongoing coastal restoration projects are at risk; and

WHEREAS, In an effort to contain this oil and other hazardous substances in such a manner as to prevent further impacts to the State's waters and shorelines, and to minimize and mitigate the scope of this damage, the State has proposed and the United States has approved as part of its overall response/removal action for the Emergency a project to construct six (6) sand barriers in the Reaches designated as E-3, E-4, W-8, W-9, W-10 and W-11 in the United States Army Corps of Engineers, New Orleans District, Emergency Permit NOD-20 dated May 27, 2010, Base File MVN 2010-1066-ETT, in the Gulf of Mexico, east and west of the Mississippi River (Emergency Berm Project).

WHEREAS, U.S. Coast Guard Rear Admiral James A. Watson, the Federal On-Scene Coordinator, has informed BP in a letter dated June 4, 2010 of his determination that the construction of Emergency Berm Project is, under current circumstances, "a removal action that will achieve the containment and removal of oil;" that the Emergency

Berm Project is "an action necessary to minimize or mitigate damage to the public health or welfare in areas affected by the Deepwater Horizon oil discharge;" that "the expense of this project is an appropriate removal cost under the Oil Pollution Act," and that construction of the Emergency Berm Project should occur on the most expeditious schedule possible.

WHEREAS The State of Louisiana is prepared to undertake the Emergency Berm Project, BP has made funding available for the project consistent with the obligation of responsible parties to receive and pay removal costs, and the State of Louisiana, through the Office of Coastal Protection and Restoration (OCPR), has entered into a contract for construction and completion of the Emergency Berm Project.

WHEREAS, It is necessary to undertake construction of the Emergency Berm Project at Reaches W-8, W-9, W-10, W-11, E-3, and E-4, as soon as reasonably possible in an effort to eliminate the threat to the safety, health, and welfare of the citizens of the state of Louisiana, including the threat to the livelihoods of Louisiana's citizens living along the coast and increasing economic impact of the Oil Spill, and eliminate and reduce the threat to Louisiana's natural resources, including land, water, fish, wildlife, fowl and other biota, posed by the Oil Spill;

WHEREAS, It may be necessary to utilize certain property for construction and completion of the Emergency Berm Project; and

WHEREAS, pursuant to R.S. 29:724(D)(4), and subject to applicable requirements for compensation, the Governor may utilize any private property if he finds this necessary to cope with a disaster or emergency;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Coastal Protection and Restoration Authority (CPRA), OCPR, the Louisiana National Guard (LNG), and any other appropriate local, state, or federal governmental entity and their contractors, shall be authorized to access, enter, and utilize public and private lands or other property rights for the Emergency Berm Project, including but not limited to Reaches W-8, W-9, W-10, W-11, E-3, and E-4, as may be necessary to construct and complete the Emergency Berm Project, including but not limited to surveying and staking the project, conducting surveys, soil borings, environmental and cultural resource investigations, accessing the project area, conducting dredging, and depositing and discharging dredge and

spoil material, all in accordance with any permits for the Emergency Berm Project or modifications thereto, the designs developed therefore, the authority of CPRA and OCPR as set for in La. R.S. 49:214.1, *et seq.*, and any other similar rule, regulation or law, all with the intent and purpose of completing the Emergency Berm Project as soon as practicable.

SECTION 2: Any entry upon or work performed by government employees or their contractors upon private property shall be in accordance with Louisiana Attorney General Opinion Nos. 05-0360, 05-0360A, and 05-0373, and any compensation for property taken shall be in accordance with the requirements of the Fifth Amendment of the Constitution of the United States of America.

SECTION 3: Any governmental entity seeking reimbursement for work performed as authorized by this Order shall comply with appropriate federal and state statutes and regulations.

SECTION 4: Any work performed pursuant to this Order shall be accompanied by documentation of the actual costs thereof borne by the governmental entity and shall be maintained for possible future reimbursement by any party responsible for the Oil Spill, including but not limited to BP.

SECTION 5: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the OCPR and the CPRA in implementing the provisions of this Order, including the execution of necessary cooperative endeavor agreements.

SECTION 6: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 11th day of June, 2010.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
1007#048

**EXECUTIVE ORDER BJ 10-12**

Executive Department—Limited Hiring Freeze

WHEREAS, pursuant to R.S. 42:375, the Governor may issue executive orders which prohibit or regulate the filling of any new or existing vacancies in positions of employment in the executive branch of state government (hereafter "hiring freeze");

WHEREAS, R.S. 39:84 provides authority to the Governor to regulate and control personnel transactions;

WHEREAS, to limit or control the growth in government positions and to prepare for the budget challenges in the ensuing years, prudent fiscal management practices dictate that the best interests of the citizens of the State of Louisiana will be served by the implementation of a hiring freeze in the executive branch of state government to achieve at least a state general fund dollar savings of \$20 million;

WHEREAS, higher education plays a vital role for the citizens of our state; and, in addition, higher education in Louisiana has a unique management structure. Recognizing this, the Commissioner of Higher Education shall have the authority to manage the positions within higher education, including the hospitals, within the confines of this Executive Order and any subsequent memorandum issued by the Commissioner of Administration as authorized by this Order limiting the number of Table of Organization (T.O.) and Non-T.O. Full-Time Equivalents (FTEs); and

WHEREAS, due to the critical nature of direct patient care and direct public safety positions, special consideration is given to provide more flexibility to the departments in hiring these positions;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: No vacancy in an existing or new position of employment within the executive branch of state government that exists on or occurs after the effective date of this order shall be filled which would in any manner, decrease, or in the case of Non-T.O. FTEs increase, the number of such frozen positions within the department, budget unit, agency, and/or office, within the executive branch of state government below the number frozen determined as provided in Paragraph B of this section. This includes Appropriated Table of Organization Full-Time Equivalent positions (T.O. FTEs), Other Compensation positions (Non-T.O. FTEs), Other Charges positions (Non-T.O. FTEs), job appointments (Non-T.O. FTEs), and restricted appointments (Non-T.O. FTEs).

A. The following departments, agencies, and/or budget units of the executive branch of the State of Louisiana (hereafter "Unit and/or "Units"), as described in and/or funded by appropriations through Acts 11 and 41 of the 2010 Regular Session of the Louisiana Legislature (hereafter "Acts"), shall be subject to the hiring freeze as provided in this Executive Order:

Executive Branch	
Schedule 01	Executive Department
Schedule 03	Veterans Affairs
Schedule 05	Economic Development
Schedule 07	Transportation and Development
Schedule 08	Corrections Services
Schedule 08	Public Safety Services
Schedule 08	Youth Services
Schedule 09	Health and Hospitals
Schedule 10	Department of Children and Family Services
Schedule 11	Natural Resources
Schedule 12	Revenue
Schedule 13	Environmental Quality
Schedule 14	Louisiana Workforce Commission
Schedule 16	Wildlife and Fisheries
Schedule 17	Civil Service
17-560	State Civil Service
17-561	Municipal Fire and Police Civil Service
17-562	Ethics Administration
17-563	State Police Commission
17-564	Division of Administrative Law

Schedule 19	Higher Education
Schedule 19	Special Schools and Commissions
19B-653	Louisiana Schools for the Deaf and Visually Impaired
19B-655	Louisiana Special Education Center
19B-657	Louisiana School for Math, Science and the Arts
19B-662	Louisiana Educational TV Authority
19B-666	Board of Elementary & Secondary Education
19B-673	New Orleans Center for the Creative Arts
Schedule 19	Department of Education
Schedule 19	LSU Health Sciences Center Health Care Services Division
Schedule 21	Ancillary
21-790	Donald J. Thibodaux Training Academy
21-796	Central Regional Laundry
21-800	Office of Group Benefits
21-804	Office of Risk Management
21-805	Administrative Services
21-806	Louisiana Property Assistance
21-807	Federal Property Assistance
21-808	Office of Telecommunications Management
21-810	Public Safety Services Cafeteria
21-811	Prison Enterprises
21-829	Office of Aircraft Services

B. The Commissioner of Administration is hereby authorized to and shall establish, on a continuing basis, the number of FTEs, hereafter referred to as "positions", to be frozen for each such department, agency, and/or budget unit specified in Paragraph A of this Section together with the expenditure of funds appropriated for such positions.

C. After the effective date of this Order, employee transfers, promotions, re-allocations, and the creation of any new positions of employment within the executive branch of state government shall not, in any manner, decrease, or in the case of Non-T.O. FTEs increase, the number of such frozen positions within the department, budget unit, agency, and/or office, within the executive branch of state government below the number frozen determined as provided in this Section unless otherwise adjusted by the Commissioner of Administration.

SECTION 2: No later than July 26, 2010, in order to implement the freeze provided in Section 1, the head of each Unit listed in Section 1 of this Order shall submit to the Commissioner of Administration (hereafter "Commissioner") a mid-year budget adjustment plan, on the BA-7 form and questionnaire, which reflects the Unit's proposed allocation of the position freeze ordered in Section 1 of this Order (hereafter "mid-year budget adjustment plan"), and a rationale or explanation of the mid-year budget adjustment plan.

A. The allocation of the position freeze shall be implemented by the Unit only upon the Commissioner's prior written approval of the Unit's mid-year budget adjustment plan.

B. Once approved, a mid-year budget adjustment plan may not be changed without the Commissioner's prior written approval.

SECTION 3:

A. The Commissioner may develop guidelines pertaining to requests for adjustments from all or part of the prohibition set for in Section 1 of this Order.

B. If necessary, the Commissioner may develop definitions for the terms and/or the descriptions used in this Order.

SECTION 4: All departments, budget units, agencies, offices, entities, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 5: The Governor, in accordance with R.S. 42:375(D) may order the Commissioner of Administration to withhold allotments in the appropriate category of expenditures from which the salary or compensation of any employee employed in violation of this executive order is paid in an amount equal to such compensation.

SECTION 6: The Order is effective July 1, 2010 and shall remain in effect through June 30, 2011 or until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 1st day of July, 2010.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
1007#049

**EXECUTIVE ORDER BJ 10-13**

Louisiana Intrastate Rail Authority

WHEREAS, the Act that originated as House Bill 1069 of the 2010 Regular Legislative Session, known as the Louisiana Intrastate Rail Compact Act, authorizes parishes and municipalities to form and incorporate a Compact through the adoption of a resolution by the governing authority;

WHEREAS, such a Compact is authorized to construct and operate transit way facilities along a transit corridor within the state of Louisiana with the prior express written consent of the affected governing bodies after a public hearing;

WHEREAS, the Act identifies a Louisiana Intrastate Rail Authority in state government but does not define the Authority or its relationship to such a Compact;

WHEREAS, it is necessary to further identify who will act pursuant to the authority delegated to the Louisiana Intrastate Rail Authority;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Any compact formed by a group of parishes and municipalities pursuant to the Act that originated as House Bill 1069 of the 2010 Regular Legislative Session is hereby designated as the Louisiana

Intrastate Rail Authority with all of the powers, duties, rights, and responsibilities vested to this entity within the Act.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of

Louisiana, at the Capitol, in the City of Baton Rouge, on this 2nd day of July, 2010.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Jay Dardenne  
Secretary of State  
1007#050

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of the Commissioner

Agricultural Commodities Commission (LAC 7:XXVII.128)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and the authority of R.S. 3:3405, the Louisiana Agricultural Commodities Commission proposes to adopt by Emergency Rule fees for the testing and sampling of aflatoxin for corn.

Aflatoxin is a toxic metabolite produced primarily by a naturally occurring fungus that affects corn. Aflatoxin is listed as a human and animal carcinogen. Aflatoxicosis in humans is characterized by vomiting, abdominal pain, pulmonary edema, convulsions, coma and death with cerebral edema and fatty involvement of the liver, kidneys and heart. Aflatoxicosis in animals causes liver damage, cancer, decreased milk and egg production, increased infections due to immunity suppression, anemia, jaundice and death. Aflatoxicosis in humans and animals results from the eating of food contaminated with aflatoxin. The United States Food and Drug Administration have established a limit of 20 parts per billion for aflatoxin in foods to be consumed by humans.

The presence and levels of aflatoxin in corn can be determined only by sampling and testing the corn. The accuracy and reliability of the methods of testing corn directly affect both the marketability of the corn and the price received for the corn by the farmer and operators of grain elevators. Failure to immediately implement regulations governing the testing of corn at grain elevators creates and imminent peril to the public health, safety and welfare of the farmers and economy of this state.

The Louisiana Agricultural Commodities Commission has, therefore, determined that this Emergency Rule is necessary in order to ensure an accurate and reliable sampling and testing of corn for aflatoxin.

This Rule becomes effective on June 22, 2010 and will remain in effect for 120 days, unless renewed or until permanent rules are promulgated in accordance with law.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXVII. Agricultural Commodity Dealer and Warehouse Law

#### Chapter 1. Agricultural Commodities Commission

#### Subchapter E. Assessments and Fees

#### §128. Fees: Amount, Time of Payment

A. - C.3. ...

4. Official Services (including sampling except as indicated)

Hopper Car, per car	\$20.00
Boxcar, per car	\$15.00
Truck/Trailer, per carrier	\$10.00
Barge, per 1,000 bushels	\$ 2.50
Submitted sample inspection	\$12.00
Re-grade grain sample	\$15.00

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3414.3 and R.S. 3:3422.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), amended LR 14:528 (August 1988), LR 19:889 (July 1993), LR 23:196 (February 1997), LR 27:815 (June 2001), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Agricultural Commodities Commission, LR 30:197 (February 2004), LR 36:

Dr. Mike Strain, DVM  
Commissioner

1007#006

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

CommunityCARE Program  
Immunization Pay-for-Performance Initiative  
Payment Levels (LAC 50:I.2915)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.2915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law."

This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the CommunityCARE Program in order to implement an immunization pay-for-performance supplemental payment based on the provider's participation in the Louisiana Immunization Network for Kids Statewide and performance in achieving immunization benchmarks (*Louisiana Register*, Volume 33, Number 6).

Online D/T sampling inspection service (sampling, grading and certification), per regular hour	\$25.00
Overtime hourly rate, per hour	\$40.00
Unit Inspection Fees:	
Aflatoxin Testing, per sample	\$30.00

As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule which amended the provisions governing the CommunityCARE Program to revise the payment levels for the pay-for-performance initiative (*Louisiana Register*, Volume 36, Number 2). The department subsequently amended the February 1, 2010 Emergency Rule to further revise the payment levels (*Louisiana Register*, Volume 36, Number 3). This Emergency Rule is being promulgated to continue the provisions of the April 1, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective July 31, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for the CommunityCARE Program to revise the payment levels for the immunization pay-for-performance initiative.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part I. Administration**

#### **Subpart 3. Medicaid Managed Care**

#### **Chapter 29. CommunityCARE**

#### **§2915. Immunization Pay-for-Performance**

A. - C.3. ...

D. Effective February 1, 2010, supplemental payments shall be available to physicians when 50-74 percent of the recipients are up-to-date with the appropriate vaccine series by 24 months of age. The payment shall be \$0.25 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP.

E. Effective April 1, 2010, supplemental payments shall be available to physicians when 60-74 percent of the recipients are up-to-date with the appropriate vaccine series by 24 months of age. The payment shall be \$0.25 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1139 (June 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1007#072

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

CommunityCARE Program  
Primary Care Provider Referral Exemptions  
(LAC 50:I.2911)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.2911 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the CommunityCARE Program to establish the program as an optional statewide covered service under the Medicaid State Plan instead of a waiver service, and to provide for the exclusion of certain additional Medicaid recipients from mandatory participation in the program (*Louisiana Register*, Volume 32, Number 3). The department now proposes to amend the provisions governing the CommunityCARE Program to exempt urgent care facilities and retail convenience clinics from the requirement to obtain a written referral/authorization from the primary care physician in order to receive reimbursement for services rendered to Medicaid recipients who are enrolled in CommunityCARE. In addition, these provisions are being amended to include the exemption of a service that had been inadvertently omitted from the previous list of exempted services.

This action is being taken to promote the health and welfare of Medicaid recipients by facilitating access to cost-effective, walk-in health services. It is estimated that implementation of this Emergency Rule will be cost neutral for state fiscal year 2010-2011.

Effective for dates of service on or after July 1, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the CommunityCARE Program to exempt urgent care facilities and retail convenience clinics from the PCP referral requirements.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part I. Administration**

#### **Subpart 3. Medicaid Coordinated Care**

#### **Chapter 29. CommunityCARE**

#### **§2911. PCP Referral/Authorization**

A. The following Medicaid-covered services do not require written referral/authorization by the recipient's PCP:

1. - 18. ...

19. services provided through the Office of Public Health's Women, Infants, and Children (WIC) program;

20. services provided by school based health centers to recipients age 10 and older;

21. dentures for adults; and

22. services provided by urgent care facilities and retail convenience clinics.

a. These providers furnish walk-in, non-routine care as an alternative to emergency department care when access to primary care services is not readily available to meet the health needs of the recipient.

b. Urgent care facilities and retail convenience clinics must provide medical record notes of the visit to the recipient's PCP within 48 hours of the visit.

B. - B.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:909 (June 2003), amended LR 32:405 (March 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1007#026

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Disproportionate Share Hospital Payments  
Mental Health Emergency Room Extensions  
(LAC 50:V.2711)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.2711 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that established a Mental Health Emergency Room Extension (MHERE) and entered into an agreement with the Office of Mental Health (Louisiana Register, Volume 34, Number 8). The department promulgated an Emergency Rule to amend the August 20, 2008 Rule to change the deadline for hospitals to sign an agreement to

participate as an MHERE (*Louisiana Register*, Volume 35, Number 12). This Emergency Rule is being promulgated to continue the provisions of the December 20, 2009 Emergency Rule. This action is being taken to avoid imminent peril to the health and welfare of Louisiana citizens who are in critical need of emergency psychiatric services by increasing access to these services.

Effective August 19, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to non-state acute care hospitals that establish a Mental Health Emergency Room Extension.

## Title 50

### PUBLIC HEALTH-MEDICAL ASSISTANCE

#### Part V. Medical Assistance Program-Hospital Services

#### Subpart 3. Disproportionate Share Hospital Payments

#### Chapter 27. Qualifying Hospitals

#### §2711. Mental Health Emergency Room Extensions

A. Medicaid-enrolled non-state, acute care hospitals that establish a Mental Health Emergency Room Extension (MHERE) and sign an addendum to the Provider Enrollment form (PE-50) by July 1, 2010 shall be reimbursed for their net uncompensated care costs for psychiatric services rendered to patients.

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1628 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1007#073

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

Disproportionate Share Hospital Payments  
Non-Rural Community Hospitals  
(LAC 50.V.2701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.2701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH)

payments to revise the provisions governing non-rural community hospitals and federally mandated statutory hospitals to clarify that hospitals qualifying as a non-rural community hospital in state fiscal year 2007-08 may also qualify in the federally mandated statutory hospital category, and to revise the definition of a non-rural community hospital (*Louisiana Register*, Volume 34, Number 11). In compliance with Act 228 of the 2009 Regular Session of the Louisiana Legislature, the department promulgated an Emergency Rule to amend the provisions governing disproportionate share hospital payments to reallocate any remaining funds from the fiscal year 2009 DSH appropriation to non-rural community hospitals and issue a supplemental payment to these hospitals for their uncompensated care costs (*Louisiana Register*, Volume 35, Number 7).

Act 10 of the 2009 Regular Session of the Louisiana Legislature directed the department to amend the DSH qualifying criteria and payment methodologies for non-rural community hospitals. In compliance with Act 10, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions of the June 26, 2009 Emergency Rule governing supplemental DSH payments to non-rural community hospitals (*Louisiana Register*, Volume 36, Number 1). The department now proposes to amend the January 20, 2010 Emergency Rule to amend the provisions governing supplemental DSH payments to non-rural community hospitals in order to redistribute the funds allocated for the state fiscal year 2010 DSH appropriation. This action is being taken to promote the public health and welfare of uninsured individuals and to ensure their continued access to health care by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective June 29, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends January 20, 2010 Emergency Rule to amend the provisions governing supplemental DSH payments to non-rural community hospitals.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part V. Medical Assistance Program—Hospital Services**

##### **Subpart 3. Disproportionate Share Hospital Payments**

##### **Chapter 27. Qualifying Hospitals**

##### **§2701. Non-Rural Community Hospitals**

A. ...

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1 of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community

hospitals included in Act 10 of the 2009 Regular Session of the Louisiana Legislature, and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1 may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications.

C. Private, non-rural community hospitals (other than freestanding psychiatric hospitals) shall be reimbursed as follows.

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, no payment shall be made.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of total hospital cost, but less than 6.5 percent, the payment shall be 50 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost, but less than or equal to 8 percent, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent of total hospital cost and 80 percent of an amount equal to 4.5 percent of total hospital cost.

C.5. - E. ...

F. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. Any funding not distributed per the methodology outlined in C.1 - C.5 above shall be reallocated to these qualifying hospitals based on their reported uninsured costs. The \$35,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2010 and distributions from the pool shall be considered nonrecurring.

G. Of the total appropriation for the non-rural community hospital pool, \$12,000,000 shall be allocated to public and private non-rural community hospitals with a distinct part psychiatric unit and freestanding psychiatric hospitals.

1. To qualify for this payment hospitals must have uninsured cost as defined in §2701.C.5 equal to or greater than 3.5 percent of total hospital cost and:

a. be a public or private non-rural community hospital, as defined in §2701.A. that has a Medicaid enrolled distinct part psychiatric unit; or

b. enrolled in Medicaid as a freestanding psychiatric hospital that pursuant to 42 CFR 441.151 is accredited by the Joint Commission on the Accreditation of Healthcare Organizations.

2. Payment shall be calculated by dividing each qualifying freestanding psychiatric hospital's or distinct part

psychiatric unit's uninsured days by the sum of all qualifying psychiatric uninsured days and multiplying by \$12,000,000.

G.2.a. - G.2.b. Repealed

H. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended LR 34:2402 (November 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1007#025

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Federally Qualified Health Centers Service Limit Reduction (LAC 50:XI.10503)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.10503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established provisions governing provider enrollment, and clarified the provisions governing services and the reimbursement methodology for federally qualified health centers (FQHCs)(*Louisiana Register*, Volume 32, Number 10).

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of

Health Services Financing promulgated an Emergency Rule which reduced the reimbursement rates paid for dental encounters and reduced the service limits for medically necessary services rendered by federally qualified health centers (*Louisiana Register*, Volume 36, Number 2). The department determined that it was necessary to amend the provisions of the January 22, 2010 Emergency Rule to repeal the provisions governing the rate reduction for dental encounters (*Louisiana Register*, Volume 36, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2010 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective August 19, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing federally qualified health centers.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XI. Clinic Services

#### Subpart 13. Federally Qualified Health Centers

#### Chapter 105. Services

#### §10503. Service Limits

A. Federally qualified health center visits (encounters) are limited to 12 visits per year for medically necessary services rendered to Medicaid recipients who are 21 years of age or older. Visits for Medicaid recipients who are under 21 years of age and for prenatal and postpartum care are excluded from the service limitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1007#074

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing

#### Home Health Program—Durable Medical Equipment Repeal of Provider Accreditation Requirements (LAC 50:XIII.8501)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIII.8501 in the

Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Section 302 of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (P.L. 108-173) established provisions which mandated that suppliers of durable medical equipment (DME) and prosthetic and orthotic devices must be accredited by one of the independent accreditation organizations recognized by Medicare in order to receive reimbursement. The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing Medicaid coverage of medical equipment, supplies and appliances in the Home Health Program to adopt Medicare's requirements for provider accreditation (*Louisiana Register*, Volume 36, Number 3). The department promulgated an Emergency Rule which repealed the provisions governing provider accreditation for medical equipment, supplies and appliances since federal regulations governing Medicare's provider accreditation requirements have changed (*Louisiana Register*, Volume 36, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2010 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued provider participation, thereby ensuring recipient access to durable medical equipment, supplies and appliances.

Effective August 19, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing provider participation for durable medical equipment to repeal the provisions governing provider accreditation.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XIII. Home Health Program**

### **Subpart 3. Medical Equipment, Supplies and Appliances**

#### **Chapter 85. Provider Participation**

#### **§8501. Accreditation Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:512 (March 2010), repealed LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1007#075

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing**

#### **Nursing Facilities—Reimbursement Rate Reduction (LAC 50:VII.1305)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:VII.1305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2010, the department promulgated an Emergency Rule to reduce the per diem rates and wage enhancement payments made to non-state nursing facilities (*Louisiana Register*, Volume 35, Number 7). In compliance with Act 244 of the 2009 Regular Session of the Louisiana Legislature, the department promulgated an Emergency Rule to implement periodic rebasing of the nursing facility rates (*Louisiana Register*, Volume 35, Number 7). The department amended the July 3, 2009 rate reduction Emergency Rule to repeal the per diem rate reduction and continued the wage enhancement reduction (*Louisiana Register*, Volume 35, Number 10). The final Rule will be published July 20, 2010 (*Louisiana Register*, Volume 36, Number 6). As a result of a budgetary shortfall in state fiscal year 2010, the department determined that it was necessary to amend the provisions governing the reimbursement methodology for nursing facilities to reduce the per diem rate paid to non-state nursing facilities (*Louisiana Register*, Volume 36, Number 2). The department subsequently amended the provisions governing the reimbursement methodology for non-state nursing facilities to reduce the reimbursement rates which were increased on July 1, 2010 as a result of the FY 2009-10 rebasing (*Louisiana Register*, Volume 36, Number 3). The March 20, 2010 Rule also clarified the provisions governing the reimbursement methodology for state-owned or operated nursing facilities and non-state, government-owned or operated nursing facilities. The department promulgated an Emergency Rule to amend the January 22, 2010 Emergency Rule to clarify the reduction of the per diem rate (*Louisiana Register*, Volume 36, Number 5).

In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year 2011, the department has now determined that it is necessary to amend the provisions governing the reimbursement methodology for nursing facilities to further reduce the per diem rates paid to non-state nursing facilities. This action is being taken in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$33,047,894 for state fiscal year 2009-2010.

Effective July 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-state nursing facilities to reduce the per diem rates.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part VII. Long Term Care Services**

**Subpart 1. Nursing Facilities**

**Chapter 13. Reimbursement**

**§1305. Rate Determination**

A. ...

B. For dates of service on or after January 1, 2003, the Medicaid daily rates shall be based on a case-mix price-based reimbursement system. Rates shall be calculated from cost report and other statistical data.

1. Effective July 3, 2009, and at a minimum, every second year thereafter, the base resident-day-weighted median costs and prices shall be rebased using the most recent four month or greater unqualified audited or desk reviewed cost reports that are available as of the April 1, prior to the July 1 rate setting. The department, at its discretion, may rebase at an earlier time.

a. For rate periods between rebasing, an index factor shall be applied to the base resident-day weighted medians and prices.

C. - E. ...

F. Effective for dates of service on or after January 22, 2010, the reimbursement paid to non-state nursing facilities shall be reduced by 1.5 percent of the per diem rate on file as of January 21, 2010 (\$1.95 per day) until such time as the rate is rebased.

G. Effective for dates of service on or after July 1, 2010, the per diem rate paid to non-state nursing facilities shall be reduced by an amount equal to 4.8 percent of the non-state owned nursing facilities statewide average daily rate on file as of July 1, 2010 until such time as the rate is rebased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1007#024

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

**Nursing Facility Minimum Licensing Standards  
Nurse Aide Training and Competency Evaluation Program  
(LAC 48:I.Chapter 100)**

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.Chapter 100 in the Medical Assistance Program as authorized by R.S. 36:254. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed the provisions governing the Nurse Aide Training and Competency Evaluation Program in Title 50 of the *Louisiana Administrative Code* (LAC) and repromulgated these provisions in LAC 48:I.Chapter 100, under licensing standards for nursing facilities (*Louisiana Register*, Volume 32, Number 11).

ACT 357 of the 2009 Regular Session of the Louisiana Legislature directed the department to establish provisions for state registration of all certified nurse aides (CNAs) working in nursing homes and skilled nursing facilities and related matters, including restricted registrations, minimum requirements to maintain certification and provisions for complaint investigations. In compliance with Act 357, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the provisions governing the Nurse Aide Training and Competency Evaluation Program in order to establish state registration requirements for CNAs who work in nursing facilities and hospital-based skilled nursing facility units. This Emergency Rule will also establish minimum requirements to maintain nurse aide certification and complaint investigation procedures. This action is being taken to promote the health and welfare of nursing facility residents by assuring that CNAs have the proper training and certifications. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2010-2011.

Effective August 15, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Nurse Aide Training and Competency Evaluation Program.

**Title 48**

**PUBLIC HEALTH – GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 100. Nurse Aide Training and Competency  
Evaluation Program**

**Subchapter A. General Provisions**

**§10001. Definitions**

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*Certified Nurse Aide*—an individual who has completed a nurse aide training and competency evaluation program

(NATCEP) approved by the state as meeting the requirements of 42 CFR 483.151-483.154, or has been determined competent as provided in 42 CFR 483.150(a) and (b), and is listed as certified and in good standing on Louisiana's nurse aide registry.

\* \* \*

*Nursing Homes or Nursing Facilities*—any entity or facility serving two or more persons, who are not related to the operator by blood or marriage, that undertakes to provide maintenance, personal care or nursing for persons who are unable to properly care for themselves by reason of illness, age or physical infirmity.

*Trainee*—an individual who is at least 17 years old and is enrolled in a nurse aide training and competency evaluation program, whether at a nursing facility or educational facility, with a goal of becoming a certified nurse aide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2074 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **§10003. State Registration Requirements**

A. Effective August 15, 2010, any nurse aide seeking employment with a nursing facility or hospital-based SNF shall be required to meet state registration and certification requirements.

B. The department will provide automatic registration of all certified nurse aides in the state, who according to the Louisiana Nurse Aide Registry, are employed with or contracted by a nursing facility or hospital-based skilled nursing facility (SNF) on August 15, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **Subchapter B. Training and Competency Requirements**

#### **§10013. Trainee Responsibilities**

A. Each nurse aide trainee must be at least 17 years old.

B. Each nurse aide trainee should be clearly identified as a trainee during all clinical portions of the training. Identification should be recognizable to residents, family members, visitors and staff.

C. Trainees must take the competency evaluation (through skills demonstration and either written or oral examination) within 30 days after completion of the training program.

1. Trainees will be provided with a maximum of three opportunities within one year following completion of the training program to successfully complete the competency evaluation program.

D. Registered nurses (RNs) and licensed practical nurses (LPNs) who have completed online courses are required to provide an official transcript to determine eligibility to test.

E. If trained in another state, the trainee must test and certify to the registry in that state before transferring to Louisiana, or retrain and test in Louisiana.

F. Military personnel must provide a copy of their military transcript and other documentation needed to determine eligibility to certify to the registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2075 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **§10015. Training Curriculum**

A. Each nurse aide training program shall provide all trainees with an orientation of the clinical training site that is a minimum of four hours long. This orientation is in addition to the total hours approved for the training program/school. The orientation shall include, but is not limited to:

1. - 5. ...

#### **B. Training Curriculum**

1. Providers applying to have a training program after the effective date of this Rule must use one of the two state-approved curriculums.

a. ...

2. Each additional unit objective added to the approved curriculum, above the minimum 80 hours, must be behaviorally-stated for each topic of instruction. Each objective must state performance criteria which are measurable and will serve as the basis for the competency evaluation.

a. The unit objectives will be reviewed with the trainees at the beginning of each unit so each trainee will know what is expected of him/her in each part of the training.

c. Any additional topics of instruction will require review and approval from the department.

#### **C. Curriculum Goals and Content**

1. - 3. ...

D. The training program must be conducted to ensure that each nurse aide, at a minimum, is able to demonstrate competencies in the following areas:

1. basic nursing skills including, but not limited to:

a. - i. ...

j. attaining and maintaining certification in cardiopulmonary resuscitation;

l.k. - 5.h. ...

#### **E. Program Approval**

1. To get a nurse aide training program approved, the facility or school must submit to the department the application, completed in its entirety, which denotes the state-approved curriculum that will be used and all required documentation stipulated in the Nurse Aide Training packet.

a. - c. Repealed.

2. All schools applying for approval must identify the physical location used for classroom instruction and for clinical experience. Non-facility based programs must also submit clinical contracts.

3. Approval to provide nurse aide training is granted specifically for the provider who submitted the application. There is no provision for subcontracting the training program.

4. If an approved program ceases to provide a nurse aide training and competency evaluation program for a two year period, the program will be closed. The provider must reapply if they wish to provide training at a later date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2075 (November 2006), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **§10017. Coordinators, Instructors and Trainers**

A. ...

1. The program coordinator must be a registered nurse (RN) with a current Louisiana license and must have the following experience and qualifications:

a. - b. ...

2. The program coordinator may supervise no more than two nurse aide training programs simultaneously and must be on the premises where the program is being conducted for at least 50 percent of the duration of the program.

B. Instructors. Instructors may be RNs or LPNs and must hold a current Louisiana license. Licensed practical (vocational) nurses, under the general supervision of the coordinator, may provide classroom and skills training instruction and supervision of trainees if they have two years of experience in caring for the elderly and/or chronically ill of any age, experience in teaching LPN or RN students or have equivalent experience.

1. Such experience is normally obtained through employment in:

- a. a nursing facility;
- b. a geriatrics department;
- c. a chronic care hospital; or
- d. other long-term care setting.

e. - m. Repealed.

2. Experience in resident care, supervision and staff education is preferred.

3. The ratio of instructors to trainees in clinical training is 1:10 and the ratio of instructors to trainees in the classroom should not exceed 1:23.

C. Program Trainers. Qualified resource personnel from the health field may participate as program trainers as needed for discussion or demonstration of specialized core procedures.

1. Qualified resource personnel must have a minimum of one year of experience in their field and must be licensed, registered and/or certified, if applicable, and may include:

- a. registered nurses;
- b. licensed practical/vocational nurses;
- c. pharmacists;
- d. dietitians;
- e. social workers;
- f. sanitarians;
- g. fire safety experts;
- h. nursing home administrators;
- i. gerontologists;
- j. psychologists;
- k. physical and occupational therapists;
- l. activities specialists; and
- m. speech/language/hearing therapists.

2. All program trainers must have a minimum of one year of current experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

3. The training program may utilize other persons such as residents, experienced aides and ombudsmen as resource personnel if these persons are needed to meet the planned program objectives or a specific unit of training.

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2076 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **§10019. Training Program Responsibilities**

A. The facility/school shall not accept a nurse aide trainee into a training program until the facility or school determines that the nurse aide trainee:

1. has not been convicted or found guilty by a court of law of:

a. abusing, neglecting or mistreating the elderly or infirm as defined by R.S. 40:2009.20 or

b. misappropriating a resident's property; or

c. has not had a finding of abuse, neglect, mistreatment or misappropriation of a resident's property placed on the Nurse Aide Registry or the Direct Service Worker Registry.

2. A criminal history back ground check shows no convictions or listing on the national sex offender public registry in accordance with R.S. 40:1300.53. Trainees may obtain a certified copy of their criminal history from the Louisiana State Police by requesting that a "right to review" be conducted.

3. Trainees shall not be prohibited from completing training due to criminal history that is not related to abuse, neglect or misappropriation.

B. For facility-based training programs, the facility shall assure that trainees do not perform any care and services for which they have not been trained and found proficient by the instructor. Trainees providing services to residents must be under the general supervision of a licensed nurse approved to work in a nurse aide training program.

1. Trainees enrolled in facility based training programs must complete training within 30 days of beginning the program.

2. A class roster, as well as the beginning and ending dates of each training class, shall be clearly documented and available for review at all times. This shall be available for both classroom and clinical instruction.

C. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2077 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

### **§10023. Compliance with Federal and State Regulations**

A. The department shall review all components of a training and competency evaluation program for compliance with federal and state regulations.

1. For facility-based programs, after initial approval of a training and competency evaluation program, the Department will conduct an initial one year post-approval review at the annual survey to determine the program's implementation of and compliance with the requirements.

2. For non-facility based programs, the Department will conduct an initial one year post-approval review and thereafter will conduct a review every two years.

B. After the one year post-approval review, an on-site review of the program will be conducted at least every two

years Programs not meeting the minimum requirements may be terminated if the program does not provide an acceptable plan for correcting deficiencies.

C. Programs not accessible or refusing to permit unannounced visits by the department will be terminated.

D. A program that has not conducted training or certified trainees to the registry within a two year period will be closed.

E. Operational Requirements

1. In order to be considered operational and retain approval to conduct a training program, providers must have at least one employee on duty at the business location during the hours of operation reported on the training program application submitted to the DHH Health Standards Section.

2. All nurse aide training providers (facility based and non-facility based) shall maintain a current, operational telephone number, fax number and e-mail address and shall keep the department informed of any changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2078 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**§10025. Nurse Aide Responsibilities**

A. A certified nurse aide employed or contracted by a nursing facility or hospital-based SNF to provide nursing assistant services shall apply for registration with the department. Each application for registration of a certified nurse aide shall be submitted to the department on forms or other methods designated by the department, and shall contain such information required by the department. Any additional information required by the department shall be provided upon request.

B. In order to maintain certification, the certified nurse aide employed or contracted by a nursing facility or hospital-based SNF shall perform a minimum of 90 days or 720 hours of certified nurse aide duties in one nursing facility or hospital based SNF within a 120 day period each year.

1. The department shall confirm the completion of the required hours at least once every two years.

C. Nurse aides working in clinical settings other than nursing facilities or hospital based SNFs must perform at least eight hours of nursing or nursing related services in an approved setting during every consecutive 24 month period for pay after completion of a training and competency evaluation program to maintain certification.

D. Nurse aides working in a nursing facility or hospital-based SNF and in any other approved setting simultaneously during the two year registration period, must comply with the requirement for 90 days or 720 hours of certified nurse aide duties in one nursing facility or hospital-based SNF within a 120 day period each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2078 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**Subchapter C. Nurse Aide Registry**

**§10033. General Provisions**

A. The Department of Health and Hospitals shall develop and maintain a registry for individuals who have successfully completed a nurse aide training and/or competency evaluation program. Each individual listed on the registry will have the following information maintained and retrievable:

1. name;
2. address;
3. Social Security Number;
4. phone number;
5. e-mail address;
6. place of employment;
7. date of employment;
8. date employment ceased;
9. state certification number;
10. state registration number, as appropriate; and
11. documentation of any investigation, including codes for specific findings of a resident's:

- a. abuse;
- b. neglect;
- c. misappropriated property; and
- d. an accurate summary of findings only after actions on findings are final.

B. The registry will renew certification in accordance with the provisions of §10025 of this Chapter.

C. ...

D. If there is a final and binding administrative decision to place a finding on the registry or if there is a final conviction, guilty plea or no contest plea to a crime(s) by a nurse aide against the elderly, infirm or a nursing facility resident, the department shall place the adverse finding on the registry. Record of the occurrence and associated findings will remain permanently on the registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2078 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**§10035. Certification by Reciprocity**

A. Nurse aides may become certified by reciprocity from other states. Applicants must, at a minimum, submit to the Nurse Aide Registry the following information:

1. his/her name;
2. his/her Social Security Number;
3. his/her e-mail address;
4. the certification number in the other state;
5. the address of the other state's registry;
6. his/her former place of employment; and
7. the date of employment and termination.

B. ...

C. Nurse aides granted reciprocity in Louisiana and who plan to be employed in a nursing facility or hospital-based SNF must also apply for state registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 32:2079 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **Subchapter D. Provider Participation**

##### **§10045. Training Program Responsibilities**

A. A person cannot be employed as a nurse aide or nurse aide trainee by a nursing facility or hospital-based SNF for more than 30 days unless he/she has satisfactorily completed an approved training and competency evaluation program.

B. Prior to employing or contracting with a certified nurse aide, a nursing facility or hospital-based SNF unit shall verify through the Louisiana's Certified Nurse Aide Registry that the certified nurse aide is currently certified and has a current state registration.

C. A person cannot be employed as a nurse aide or nurse aide trainee if there is a final administrative or judicial court decision that the nurse aide or trainee has:

1. committed abuse, neglect or mistreatment of the elderly, infirm or nursing facility resident; or
2. misappropriated a resident's property.

D. The provider must complete and send the appropriate form to the Registry to notify the Registry of employment or termination of a certified nurse aide.

1. Failure to send notification to the Registry within five working days of employment or termination may result in further adverse action against the provider.

E. All facilities will continue to provide on-going training on a routine basis in groups and, as necessary in specific situations, on a one-to-one basis.

1. Each nurse aide must receive and be compensated for 12 hours of on-going training per year.

2. Training can be received in the unit as long as it is:
- a. directed toward skills improvement;
  - b. provided by appropriately trained staff; and
  - c. documented.

F. When a change of ownership (CHOW) occurs, the new owner or the administrator/designee is responsible for ensuring that all reporting of employment and termination to the registry is current. In the event that a request for verification of work history is received after the CHOW occurs, the current owner is responsible for compliance.

G. The facility administrator/designee is responsible for reporting work history to the registry for nurse aides employed by staffing agencies. This shall be done at least monthly.

H. No nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the aide begins a nurse aide competency evaluation program may be charged for any portion of the program.

I. If an individual who is not employed, or does not have an offer to be employed as a nurse aide becomes employed by, or receives an offer of employment from, a facility not later than 12 months after completing a nurse aide competency evaluation program, the state must provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.

J. Providers shall issue a certificate of completion to nurse aides who successfully complete training and competency evaluation programs.

K. If a training program is facility-based, the administrator or their designee shall reconcile with the nurse aide registry at least monthly, their CNAs that are employed

or have been terminated. Accuracy of information held by the registry is the responsibility of the facility. Failure to maintain current data shall result in adverse action by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2079 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **Subchapter G. Medication Attendant Certified**

##### **§10081. General Provisions**

A. The Department of Health and Hospitals (DHH) implements a three-year pilot project which establishes provisions for the use of medication attendants certified in licensed nursing facilities. The department shall also develop and maintain a registry of individuals who have, at a minimum, successfully completed a state-approved medication attendant certified training course and competency evaluation, and criminal background check.

B. The medication attendant certified registry will contain the following items:

1. a list of individuals who have successfully completed a medication attendant certified training curriculum and competency evaluation. Each individual listed will have the following information maintained on the registry:

- a. name;
- b. address;
- c. Social Security number;
- d. phone number;
- e. e-mail address;
- f. place of employment;
- g. date of employment;
- h. date employment ceased;
- i. state certification number;
- j. documentation of any investigation including codes for specific findings of:
  - i. - v. ...

k. information relative to training and registry status which will be available through procedures established by the department.

C. ...

D. A certificate holder must notify the department within 30 days after changing his or her address or name.

E. A medication attendant certified or his or her employer, if aware, must immediately notify the department of any arrest in any state.

F. A person who holds a valid license, registration or certificate as a medication attendant issued by another state may also be certified in Louisiana if the transferring state's training program is at least 100 hours or more and the applicant passes the state competency examination.

1. The applicant must submit a request for reciprocity to the registry.

2. ...

3. The department may contact the issuing agency to verify the applicant's status with the agency.

G. - G.2. ...

H. The department shall deny renewal of the certificate of a medication attendant certified who is in violation of this Chapter at the time of the application renewal.

I. ...

J. A medication attendant certified must function under the direct supervision of a licensed nurse on duty at the nursing facility. A certificate holder must:

1. ...

2. comply with the department's rules applicable to personnel used in a nursing facility.

K. Persons employed as medication attendants certified in a nursing facility must comply with the requirements relating to nurse aides as set forth in the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, the department's rule governing the Standards for Payment for Nursing Homes and Minimum Licensure Standards for Nursing Homes or subsequent amendments. Requirements are met if the individual is:

1. ...

2. a trainee in a medication assistant training program approved by the department under this Chapter who is administering medications as part of the trainee's clinical experience.

L. ...

M. For the duration of the pilot project, nursing facilities may not count the MAC in required nursing hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1 - 37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1413 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### **§10088. Provider Participation and Responsibilities**

A. A nursing facility must apply to the department to utilize medication attendants certified. Upon receipt of a facility's application, the department will review the facility's compliance history.

B. If a facility is non-compliant with program regulations, the department shall take into consideration the findings that resulted in the facility's noncompliance before making a determination whether or not to allow the facility to utilize medication attendants certified. Emphasis shall be placed on deficiencies cited in the area of medication administration such as significant medication errors, medication error rates and repeat deficiencies.

C. The department may deny a facility's request to use medication attendants if it is determined that, based upon the compliance history, the safety and well-being of residents would be jeopardized. If the facility is denied participation, the facility may ask for a reconsideration and review of the circumstances which contributed to the denial.

D. - D.8. ...

E. A facility's application that is not complete within 90 days of receipt by the department will be closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1 - 37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Don Gregory, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine  
Secretary

1007#071

### **EMERGENCY RULE**

#### **Department of Natural Resources Office of Conservation**

Statewide Orders No. 29-B and 29-B-a  
(LAC 43:XIX.Chapters 2 and 11)

Editor's Note: This Emergency Rule was rescinded and replaced.

Pursuant to the power delegated under the laws of the State of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefore are now adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally, by amending and expanding the drilling and completion operational and safety requirements for wells drilled in search of oil and natural gas at water locations.

The Emergency Rule is intended to provide greater protection to the public health, safety and welfare of the people of the state, as well as the environment generally by adopting new operational and safety requirements for the drilling and completion of oil and gas wells at water locations. Specifically, the Emergency Rule creates a new Chapter within Statewide Order No. 29-B (LAC 43:XIX.Chapter 2) to provide additional rules concerning the drilling and completion of oil and gas wells at water locations, specifically providing for the following: rig movement and reporting requirements, additional requirements for applications to drill, casing-header requirements, mandatory diverter systems and blowout preventer requirements, oil and gas well-workover operations, diesel engine safety requirements, and drilling fluid regulations. Further, the Emergency Rule amends Statewide Order No. 29-B-a (LAC 43:XIX.Chapter 11) to provide for and expand upon rules concerning the use of storm chokes in oil and gas wells at water locations.

Recognizing the potential advantages of expanding the operational and safety requirements for the drilling and completion of oil and gas wells at water locations within the State, it has been determined that failure to establish such requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that drilling and completion of oil and gas wells at water locations within the State are undertaken in accordance with all reasonable care and protection to the health, safety of the public, oil and gas personnel, and the environment generally.

Notwithstanding the above, it is necessary to allow the affected industry adequate time to prepare for implementation and compliance with the Emergency Rule. Time must be allowed for establishing the required equipment and qualified personnel, training of personnel, and possible modification of exploration and production schedules and procedures. For the above reasons, the effective date of the Emergency Rule, Amendment to Statewide Order No. 29-B (LAC 43:XIX.Chapter 2) and Statewide Order No. 29-B-a (LAC 43:XIX.Chapter 11) (Emergency Rule) set forth hereinafter is July 15, 2010. The Emergency Rule shall remain in effect for 120 days after its effective date.

### **Title 43**

### **NATURAL RESOURCES**

### **Part XIX. Office of Conservation—General Operations**

#### **Subpart 1. Statewide Order No. 29-B**

#### **Chapter 2. Additional Requirements for Water Locations**

##### **§201. Applicability**

A. In addition to the requirements set forth in Chapter 1 of this Subpart, all oil and gas wells being drilled or completed at a water location within the state shall comply with this Chapter.

B. Unless otherwise stated herein, nothing within this Chapter shall alter the obligation of oil and gas operators to meet the requirements of Chapter 1 of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

##### **§203. Application to Drill**

A. In addition to the requirements set forth in Section 103 of this Subpart, at the time of submittal of an application for permit to drill, the applicant will provide an electronic copy on a disk of the Spill Prevention Control (SPC) plan that was submitted to DEQ pursuant to the provisions of Part IX of Title 33 of the Louisiana Administrative Code or any successor rule. Such plan shall become a part of the official well file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

##### **§204. Rig Movement and Reporting**

A. The operator must report the movement of all drilling and workover rig units on and off locations to the appropriate district manager with the rig name, well serial number and expected time of arrival and departure.

B. Drilling operations on a platform with producing wells or other hydrocarbon flow must comply with the following.

1. An emergency shutdown station must be installed near the driller's console.

2. All producible wells located in the affected wellbay must be shut in below the surface and at the wellhead when:

a. a rig or related equipment is moved on and off a platform. This includes rigging up and rigging down activities within 500 feet of the affected platform;

b. a drilling unit is moved or skid between wells on a platform;

c. a mobile offshore drilling unit (MODU) moves within 500 feet of a platform.

3. Production may be resumed once the MODU is in place, secured, and ready to begin drilling operations.

C. The movement of rigs and related equipment on and off a platform or from well to well on the same platform, including rigging up and rigging down, shall be conducted in a safe manner. All wells in the same well-bay which are capable of producing hydrocarbons shall be shut in below the surface with a pump-through-type tubing plug and at the surface with a closed master valve prior to moving well-completion rigs and related equipment, unless otherwise approved by the district manager. A closed surface-controlled subsurface safety valve of the pump-through type may be used in lieu of the pump-through-type tubing plug, provided that the surface control has been locked out of operation. The well from which the rig or related equipment is to be moved shall also be equipped with a back-pressure valve prior to removing the blowout preventer (BOP) system and installing the tree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

##### **§205. Casing Program**

###### **A. General Requirements**

1. The operator shall case and cement all wells with a sufficient number of strings of casing and quantity and quality of cement in a manner necessary to prevent fluid migration in the wellbore, protect the underground source of drinking water (USDW) from contamination, support unconsolidated sediments, and otherwise provide a means of control of the formation pressures and fluids.

2. The operator shall install casing necessary to withstand collapse, bursting, tensile, and other stresses that may be encountered and the well shall be cemented in a manner which will anchor and support the casing. Safety factors in casing program design shall be of sufficient magnitude to provide optimum well control while drilling and to assure safe operations for the life of the well.

3. All tubulars and cement shall meet or exceed API standards. Cementing jobs shall be designed so that cement composition, placement techniques, and waiting times ensure that the cement placed behind the bottom 500 feet of casing attains a minimum compressive strength of 500 psi before drilling out of the casing or before commencing completion operations.

###### **4. Centralizers**

a. Surface casing shall be centralized by means of placing centralizers in the following manner.

i. A centralizer shall be placed on every third joint from the shoe to surface, with two centralizers being placed on each of the lowermost three joints of casing.

ii. If conductor pipe is set, three centralizers shall be equally spaced on surface casing to fall within the conductor pipe.

b. Intermediate and production casing, and drilling and production liners shall be centralized by means of a

centralizer placed every third joint from the shoe to top of cement. Additionally, two centralizers shall be placed on each of the lowermost three joints of casing.

c. All centralizers shall meet API standards.

5. A copy of the documentation furnished by the manufacturer, if new, or supplier, if reconditioned, which certifies tubular condition, shall be provided with the Well History and Work Resume Report (Form WH-1).

B. Conductor Pipe. A conductor pipe is that pipe ordinarily used for the purpose of supporting unconsolidated surface deposits. A conductor pipe shall be used during the drilling of any oil and gas well and shall be set at depth that allows use of a diverter system.

C. Surface Casing

1. Where no danger of pollution of the USDW exists, the minimum amount of surface or first-intermediate casing to be set shall be determined from Table 1 hereof, except that in no case shall less surface casing be set than an amount needed to protect the USDW unless an alternative method of USDW protection is approved by the district manager.

Total Depth of Contact	Casing Required	Surface Casing Test Pressure (lbs. per sq. in.)
0-2500	100	300
2500-3000	150	600
3000-4000	300	600
4000-5000	400	600
5000-6000	500	750
6000-7000	800	1000
7000-8000	1000	1000
8000-9000	1400	1000
9000-Deeper	1800	1000

a. In known low-pressure areas, exceptions to the above may be granted by the commissioner or his agent. If, however, in the opinion of the commissioner, or his agent, the above regulations shall be found inadequate, and additional or lesser amount of surface casing and/or test pressure shall be required for the purpose of safety and the protection of the USDW.

2. Surface casing shall be cemented with a sufficient volume of cement to insure cement returns to the surface.

3. Surface casing shall be tested before drilling the plug by applying a minimum pump pressure as set forth in Table 1 after at least 200 feet of the mud-laden fluid has been displaced with water at the top of the column. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of test pressure as outlined in Table 1, the operator shall be required to take such corrective measures as will insure that such surface casing will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure. The provisions of Paragraph E.7, below, for the producing casing, shall also apply to the surface casing.

4. Cement shall be allowed to stand a minimum of 12 hours under pressure before initiating test or drilling plug. Under pressure is complied with if one float valve is used or if pressure is held otherwise.

D. Intermediate Casing/Drilling Liner

1. Intermediate casing is that casing used as protection against caving of heaving formations or when other means are not adequate for the purpose of segregating upper oil, gas or water-bearing strata. Intermediate casing/drilling liner

shall be set when required by abnormal pressure or other well conditions.

2. If an intermediate casing string is deemed necessary by the district manager for the prevention of underground waste, such regulations pertaining to a minimum setting depth, quality of casing, and cementing and testing of sand, shall be determined by the Office of Conservation after due hearing. The provisions of Paragraph E.7 below, for the producing casing, shall also apply to the intermediate casing.

3. Intermediate casing/drilling liner shall be at minimum, cemented in such a manner, at least 500 feet above all known hydrocarbon bearing formations to insure isolation and, if applicable, all abnormal pressure formations are isolated from normal pressure formations, but in no case shall less cement be used than the amount necessary to fill the casing/liner annulus to a point 500 feet above the shoe or the top of the liner whichever is less. If a liner is used as an intermediate string, the cement shall be tested by a fluid entry test (-0.5 ppg EMW) to determine whether a seal between the liner top and next larger casing string has been achieved, and the liner-lap point must be at least 300 feet above the previous casing shoe. The drilling liner (and liner-lap) shall be tested to a pressure at least equal to the anticipated pressure to which the liner will be subjected to during the formation-integrity test below that liner shoe, or subsequent liner shoes if set. Testing shall be in accordance with Subsection G below.

4. Before drilling the plug in the intermediate string of casing, the casing shall be tested by pump pressure, as determined from Table 2 hereof, after 200 feet of mud-laden fluid in the casing has been displaced by water at the top of the column.

Depth Set	Test Pressure (lbs. per sq. in.)
2000-3000'	800
3000-6000'	1000
6000-9000'	1200
9000-and deeper	1500

a. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of the test pressure or more, the operator shall be required to take such corrective measures as will insure that casing is so set and cemented that it will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure on the gauge.

5. Cement shall be allowed to stand a minimum of 12 hours under pressure and a minimum total of 24 hours before initiating pressure test. Under pressure is complied with if one or more float valves are employed and are shown to be holding the cement in place, or when other means of holding pressure is used. When an operator elects to perforate and squeeze or to cement around the shoe, he may proceed with such work after 12 hours have elapsed after placing the first cement.

6. If the test is unsatisfactory, the operator shall not proceed with the drilling of the well until a satisfactory test has been obtained.

E. Producing String

1. Producing string, production casing or production liner is that casing used for the purpose of segregating the horizon from which production is obtained and affording a

means of communication between such horizons and the surface.

2. The producing string of casing shall consist of new or reconditioned casing, tested at mill test pressure or as otherwise designated by the Office of Conservation.

3. Cement shall be by the pump-and-plug method, or another method approved by the Office of Conservation. Production casing/production liner shall be at minimum, cemented in such a manner, at least 500 feet above all known hydrocarbon bearing formations to insure isolation and, if applicable, all abnormal pressure formations are isolated from normal pressure formations, but in no case shall less cement be used than the amount necessary to fill the casing/liner annulus to a point 500 feet above the shoe or the top of the liner whichever is less. If a liner is used as a producing string, the cement shall be tested by a fluid entry test (-0.5 ppg EMW) to determine whether a seal between the liner top and next larger casing string has been achieved, and the liner-lap point must be at least 300 feet above the previous casing shoe. The production liner (and liner-lap) shall be tested to a pressure at least equal to the anticipated pressure to which the liner will be subjected to during the formation-integrity test below that liner shoe, or subsequent liner shoes if set. Testing shall be in accordance with Subsection G below.

4. The amount of cement to be left remaining in the casing, until the requirements of Paragraph 5 below have been met, shall be not less than 20 feet. This shall be accomplished through the use of a float-collar, or other approved or practicable means, unless a full-hole cementer, or its equivalent, is used.

5. Cement shall be allowed to stand a minimum of 12 hours under pressure and a minimum total of 24 hours before initiating pressure test in the producing or oil string. Under pressure is complied with if one or more float valves are employed and are shown to be holding the cement in place, or when other means of holding pressure is used. When an operator elects to perforate and squeeze or to cement around the shoe, he may proceed with such work after 12 hours have elapsed after placing the first cement.

6. Before drilling the plug in the producing string of casing, the casing shall be tested by pump pressure, as determined from Table 3 hereof, after 200 feet of mud-laden fluid in the casing has been displaced by water at the top of the column.

<b>Depth Set</b>	<b>Test Pressure (lbs. per sq. in.)</b>
2000-3000'	800
3000-6000'	1000
6000-9000'	1200
9000-and deeper	1500

a. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of the test pressure or more, the operator shall be required to take such corrective measures as will insure that the producing string of casing is so set and cemented that it will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure on the gauge.

7. If the commissioner's agent is not present at the time designated by the operator for inspection of the casing

tests of the producing string, the operator shall have such tests witnessed, preferably by an offset operator. An affidavit of test, on the form prescribed by the district office, signed by the operator and witness, shall be furnished to the district office showing that the test conformed satisfactorily to the above mentioned regulations before proceeding with the completion. If test is satisfactory, normal operations may be resumed immediately.

8. If the test is unsatisfactory, the operator shall not proceed with the completion of the well until a satisfactory test has been obtained.

**F. Cement Evaluation**

1. Cement evaluation tests (cement bond or temperature survey) shall be conducted for all casing and liners installed below surface casing to assure compliance with LAC 43:XIX.205.D.3 and E.3.

2. Remedial cementing operations that are required to achieve compliance with LAC 43:XIX.205.D.3 and E.3 shall be conducted following receipt of an approved work permit from the district manager for the proposed operations.

3. Cementing and wireline records demonstrating the presence of the required cement tops shall be retained by the operator for a period of two years.

**G. Leak-off Tests**

1. A pressure integrity test must be conducted below the surface casing or liner and all intermediate casings or liners. The district manager may require a pressure-integrity test at the conductor casing shoe if warranted by local geologic conditions or the planned casing setting depth. Each pressure integrity test must be conducted after drilling at least 10 feet but no more than 50 feet of new hole below the casing shoe and must be tested to either the formation leak-off pressure or to the anticipated equivalent drilling fluid weight at the setting depth of the next casing string.

a. The pressure integrity test and related hole-behavior observations, such as pore-pressure test results, gas-cut drilling fluid, and well kicks must be used to adjust the drilling fluid program and the setting depth of the next casing string. All test results must be recorded and hole-behavior observations made during the course of drilling related to formation integrity and pore pressure in the driller's report.

b. While drilling, a safe drilling margin must be maintained. When this safe margin cannot be maintained, drilling operations must be suspended until the situation is remedied.

**H. Prolonged Drilling Operations**

1. If wellbore operations continue for more than 30 days within a casing string run to the surface.

a. Drilling operations must be stopped as soon as practicable, and the effects of the prolonged operations on continued drilling operations and the life of the well evaluated. At a minimum, the operator shall:

i. caliper or pressure test the casing; and  
 ii. report evaluation results to the district manager and obtain approval of those results before resuming operations.

b. If casing integrity as determined by the evaluation has deteriorated to a level below minimum safety factors, the casing must be repaired or another casing string run. Approval from the district manager shall be obtained prior to any casing repair activity.

## I. Tubing and Completion

1. Well-completion operations means the work conducted to establish the production of a well after the production-casing string has been set, cemented, and pressure-tested.

2. Prior to engaging in well-completion operations, crew members shall be instructed in the safety requirements of the operations to be performed, possible hazards to be encountered, and general safety considerations to protect personnel, equipment, and the environment. Date and time of safety meetings shall be recorded and available for review by the Office of Conservation.

3. When well-completion operations are conducted on a platform where there are other hydrocarbon-producing wells or other hydrocarbon flow, an emergency shutdown system (ESD) manually controlled station shall be installed near the driller's console or well-servicing unit operator's work station.

4. No tubing string shall be placed in service or continue to be used unless such tubing string has the necessary strength and pressure integrity and is otherwise suitable for its intended use.

5. A valve, or its equivalent, tested to a pressure of not less than the calculated bottomhole pressure of the well, shall be installed below any and all tubing outlet connections.

6. When a well develops a casing pressure, upon completion, equivalent to more than three-quarters of the internal pressure that will develop the minimum yield point of the casing, such well shall be required by the district manager to be killed, and a tubing packer to be set so as to keep such excessive pressure off of the casing.

7. Wellhead Connections. Wellhead connections shall be tested prior to installation at a pressure indicated by the district manager in conformance with conditions existing in areas in which they are used. Whenever such tests are made in the field, they shall be witnessed by an agent of the Office of Conservation. Tubing and tubingheads shall be free from obstructions in wells used for bottomhole pressure test purposes.

8. When the tree is installed, the wellhead shall be equipped so that all annuli can be monitored for sustained pressure. If sustained casing pressure is observed on a well, the operator shall immediately notify the district manager.

9. Wellhead, tree, and related equipment shall have a pressure rating greater than the shut-in tubing pressure and shall be designed, installed, used, maintained, and tested so as to achieve and maintain pressure control. New wells completed as flowing or gas-lift wells shall be equipped with a minimum of one master valve and one surface safety valve, installed above the master valve, in the vertical run of the tree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

### **§207. Diverter Systems and Blowout Preventers**

A. Diverter System. A diverter system shall be required when drilling surface hole in areas where drilling hazards are known or anticipated to exist. The district manager may, at his discretion, require the use of a diverter system on any well. In cases where it is required, a diverter system consisting of a diverter sealing element, diverter lines, and

control systems must be designed, installed, used, maintained, and tested to ensure proper diversion of gases, water, drilling fluids, and other materials away from facilities and personnel. The diverter system shall be designed to incorporate the following elements and characteristics:

1. dual diverter lines arranged to provide for maximum diversion capability;

2. at least two diverter control stations. One station shall be on the drilling floor. The other station shall be in a readily accessible location away from the drilling floor;

3. remote-controlled valves in the diverter lines. All valves in the diverter system shall be full-opening. Installation of manual or butterfly valves in any part of the diverter system is prohibited;

4. minimize the number of turns in the diverter lines, maximize the radius of curvature of turns, and minimize or eliminate all right angles and sharp turns;

5. anchor and support systems to prevent whipping and vibration;

6. rigid piping for diverter lines. The use of flexible hoses with integral end couplings in lieu of rigid piping for diverter lines shall be approved by the district manager.

#### B. Diverter Testing Requirements

1. When the diverter system is installed, the diverter components including the sealing element, diverter valves, control systems, stations and vent lines shall be function and pressure tested.

2. For drilling operations with a surface wellhead configuration, the system shall be function tested at least once every 24-hour period after the initial test.

3. After nipping-up on conductor casing, the diverter sealing element and diverter valves are to be pressure tested to a minimum of 200 psig. Subsequent pressure tests are to be conducted within seven days after the previous test.

4. Function tests and pressure tests shall be alternated between control stations.

#### 5. Recordkeeping Requirements

a. Pressure and function tests are to be recorded in the driller's report and certified (signed and dated) by the operator's representative.

b. The control station used during a function or pressure test is to be recorded in the driller's report.

c. Problems or irregularities during the tests are to be recorded along with actions taken to remedy same in the driller's report.

d. All reports pertaining to diverter function and/or pressure tests are to be retained for inspection at the wellsite for the duration of drilling operations.

C. BOP Systems. The operator shall specify and insure that contractors design, install, use, maintain and test the BOP system to ensure well control during drilling, workover and all other appropriate operations. The surface BOP stack shall be installed before drilling below surface casing.

1. BOP system components for drilling activity located over a body of water shall be designed and utilized, as necessary, to control the well under all potential conditions that might occur during the operations being conducted and at minimum, shall include the following components:

- a. annular-type well control component;
- b. hydraulically-operated blind rams;

- c. hydraulically-operated shear rams;
  - d. two sets of hydraulically-operated pipe rams.
2. Drilling activity with a tapered drill string shall require the installation of two or more sets of conventional or variable-bore pipe rams in the BOP stack to provide, at minimum, two sets of rams capable of sealing around the larger-size drill string and one set of pipe rams capable of sealing around the smaller-size drill string.
3. A set of hydraulically-operated combination rams may be used for the blind rams and shear rams.
4. All connections used in the surface BOP system must be flanged, including the connections between the well control stack and the first full-opening valve on the choke line and the kill line.
5. The Commissioner of Conservation, following a public hearing, may grant exceptions to the requirements of LAC 43:XIX.207.C-J.
- D. BOP Working Pressure. The working pressure rating of any BOP component, excluding annular-type preventers, shall exceed the maximum anticipated surface pressure (MASP) to which it may be subjected.
- E. BOP Auxiliary Equipment. All BOP systems shall be equipped and provided with the following:
- 1. a hydraulically actuated accumulator system which shall provide 1.5 times volume of fluid capacity to close and hold closed all BOP components, with a minimum pressure of 200 psig above the pre-charge pressure without assistance from a charging system;
  - 2. a backup to the primary accumulator-charging system, supplied by a power source independent from the power source to the primary, which shall be sufficient to close all BOP components and hold them closed;
  - 3. accumulator regulators supplied by rig air without a secondary source of pneumatic supply shall be equipped with manual overrides or other devices to ensure capability of hydraulic operation if the rig air is lost;
  - 4. at least one operable remote BOP control station in addition to the one on the drilling floor. This control station shall be in a readily accessible location away from the drilling floor. If a BOP control station does not perform properly, operations shall be suspended until that station is operable;
  - 5. a drilling spool with side outlets, if side outlets are not provided in the body of the BOP stack, to provide for separate kill and choke lines;
  - 6. a kill line and a separate choke line are required. Each line must be equipped with two full-opening valves and at least one of the valves must be remotely controlled. The choke line shall be installed above the bottom ram. A manual valve must be used instead of the remotely controlled valve on the kill line if a check valve is installed between the two full-opening manual valves and the pump or manifold. The valves must have a working pressure rating equal to or greater than the working pressure rating of the connection to which they are attached, and must be installed between the well control stack and the choke or kill line. For operations with expected surface pressures greater than 3,500 psi, the kill line must be connected to a pump or manifold. The kill line inlet on the BOP stack must not be used for taking fluid returns from the wellbore;
  - 7. a valve installed below the swivel (upper Kelly cock), essentially full-opening, and a similar valve installed

at the bottom of the Kelly (lower Kelly cock). An operator must be able to strip the lower Kelly cock through the BOP stack. A wrench to fit each valve shall be stored in a location readily accessible to the drilling crew. If drilling with a mud motor and utilizing drill pipe in lieu of a Kelly, you must install one Kelly valve above, and one strippable Kelly valve below the joint of pipe used in place of a Kelly. On a top-drive system equipped with a remote-controlled valve, you must install a strippable Kelly-type valve below the remote-controlled valve;

8. an essentially full-opening drill-string safety valve in the open position on the rig floor shall be available at all times while drilling operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the drill string. A wrench to fit the drill-string safety valve shall be stored in a location readily accessible to the drilling crew;

9. a safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string being run in the hole;

10. locking devices installed on the ram-type preventers.

#### F. BOP Maintenance and Testing Requirements

1. The BOP system shall be visually inspected on a daily basis.

2. Pressure tests (low and high pressure) of the BOP system are to be conducted at the following times and intervals:

- a. during a shop test prior to transport of the BOPs to the drilling location. Shop tests are not required for equipment that is transported directly from one well location to another;

- b. immediately following installation of the BOPs;

- c. within 14 days of the previous BOP pressure test, alternating between control stations and at a staggered interval to allow each crew to operate the equipment. If either control system is not functional, further operations shall be suspended until the nonfunctional, system is operable. Exceptions may be granted by the district manager in cases where a trip is scheduled to occur within 2 days after the 14-day testing deadline;

- d. before drilling out each string of casing or liner (The district manager may require that a conservation enforcement specialist witness the test prior to drilling out each casing string or liner.);

- e. not more than 48 hours before a well is drilled to a depth that is within 1000 feet of a hydrogen sulfide zone (The district manager may require that a conservation enforcement specialist witness the test prior to drilling to a depth that is within 1000 feet of a hydrogen sulfide zone.);

- f. when the BOP tests are postponed due to well control problem(s), the BOP test is to be performed on the first trip out of the hole, and reasons for postponing the testing are to be recorded in the driller's report.

3. Low pressure tests (200-300 psig) of the BOP system (choke manifold, Kelly valves, drill-string safety valves, etc.) are to be performed at the times and intervals specified in LAC 43:XIX.207.F.2. in accordance with the following provisions.

- a. Test pressures are to be held for a minimum of five minutes.

b. Variable bore pipe rams are to be tested against the largest and smallest sizes of pipe in use, excluding drill collars and bottom hole assembly.

c. Bonnet seals are to be tested before running the casing when casing rams are installed in the BOP stack.

4. High pressure tests of the BOP system are to be performed at the times and intervals specified in LAC 43:XIX.207.F.2 in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Ram-type BOP's, choke manifolds, and associated equipment are to be tested to the rated working pressure of the equipment or 500 psi greater than the calculated MASP for the applicable section of the hole.

c. Annular-type BOPs are to be tested to 70 percent of the rated working pressure of the equipment.

5. The annular and ram-type BOPs with the exception of the blind-shear rams are to be function tested every seven days between pressure tests. All BOP test records should be certified (signed and dated) by the operator's representative.

a. Blind-shear rams are to be tested at all casing points and at an interval not to exceed 30 days.

6. If the BOP equipment does not hold the required pressure during a test, the problem must be remedied and a retest of the affected component(s) performed. Additional BOP testing requirements:

a. use water to test the surface BOP system;

b. if a control station is not functional operations shall be suspended until that station is operable;

c. test affected BOP components following the disconnection or repair of any well-pressure containment seal in the wellhead or BOP stack assembly.

G. BOP Record Keeping. The time, date and results of pressure tests, function tests, and inspections of the BOP system are to be recorded in the driller's report. All pressure tests shall be recorded on an analog chart or digital recorder. All documents are to be retained for inspection at the wellsite for the duration of drilling operations and are to be retained in the operator's files for a period of two years.

H. BOP Well Control Drills. Weekly well control drills with each drilling crew are to be conducted during a period of activity that minimizes the risk to drilling operations. The drills must cover a range of drilling operations, including drilling with a diverter (if applicable), on-bottom drilling, and tripping. Each drill must be recorded in the driller's report and is to include the time required to close the BOP system, as well as, the total time to complete the entire drill.

I. Well Control Safety Training. In order to ensure that all drilling personnel understand and can properly perform their duties prior to drilling wells which are subject to the jurisdiction of the Office of Conservation, the operator shall require that contract drilling companies provide and/or implement the following:

1. periodic training for drilling contractor employees which ensures that employees maintain an understanding of, and competency in, well control practices;

2. procedures to verify adequate retention of the knowledge and skills that the contract drilling employees need to perform their assigned well control duties.

J. Well Control Operations

1. The operator must take necessary precautions to keep wells under control at all times and must:

a. use the best available and safest drilling technology to monitor and evaluate well conditions and to minimize the potential for the well to flow or kick;

b. have a person onsite during drilling operations who represents the operators interests and can fulfill the operators responsibilities;

c. ensure that the tool pusher, operator's representative, or a member of the drilling crew maintains continuous surveillance on the rig floor from the beginning of drilling operations until the well is completed or abandoned, unless you have secured the well with blowout preventers (BOPs), bridge plugs, cement plugs, or packers;

d. use and maintain equipment and materials necessary to ensure the safety and protection of personnel, equipment, natural resources, and the environment.

2. Whenever drilling operations are interrupted, a downhole safety device must be installed, such as a cement plug, bridge plug, or packer. The device must be installed at an appropriate depth within a properly cemented casing string or liner.

a. Among the events that may cause interruption to drilling operations are:

i. evacuation of the drilling crew;

ii. inability to keep the drilling rig on location; or

iii. repair to major drilling or well-control equipment.

3. If the diverter or BOP stack is nipped down while waiting on cement, it must be determined, before nipping down, when it will be safe to do so based on knowledge of formation conditions, cement composition, effects of nipping down, presence of potential drilling hazards, well conditions during drilling, cementing, and post cementing, as well as past experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

#### **§209. Casing-Heads**

A. All wells shall be equipped with casing-heads with a test pressure in conformance with conditions existing in areas in which they are used. Casing-head body, as soon as installed shall be equipped with proper connections and valves accessible to the surface. Reconditioning shall be required on any well showing pressure on the casing-head, or leaking gas or oil between the oil string and next larger size casing string, when, in the opinion of the district managers, such pressure or leakage assume hazardous proportions or indicate the existence of underground waste. Mud-laden fluid may be pumped between any two strings of casing at the top of the hole, but no cement shall be used except by special permission of the commissioner or his agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

#### **§211. Oil and Gas Well-Workover Operations**

A. Definitions. When used in this Section, the following terms shall have the meanings given below.

*Expected Surface Pressure*—the highest pressure predicted to be exerted upon the surface of a well. In calculating expected surface pressure, reservoir pressure as well as applied surface pressure must be considered.

*Routine Operations*—any of the following operations conducted on a well with the tree installed including cutting paraffin, removing and setting pump-through-type tubing plugs, gas-lift valves, and subsurface safety valves which can be removed by wireline operations, bailing sand, pressure surveys, swabbing, scale or corrosion treatment, caliper and gauge surveys, corrosion inhibitor treatment, removing or replacing subsurface pumps, through-tubing logging, wireline fishing, and setting and retrieving other subsurface flow-control devices.

*Workover Operations*—the work conducted on wells after the initial completion for the purpose of maintaining or restoring the productivity of a well.

B. When well-workover operations are conducted on a well with the tree removed, an emergency shutdown system (ESD) manually controlled station shall be installed near the driller's console or well-servicing unit operator's work station, except when there is no other hydrocarbon-producing well or other hydrocarbon flow on the platform.

C. Prior to engaging in well-workover operations, crew members shall be instructed in the safety requirements of the operations to be performed, possible hazards to be encountered, and general safety considerations to protect personnel, equipment, and the environment. Date and time of safety meetings shall be recorded and available for review.

D. Well-control fluids, equipment, and operations. The following requirements apply during all well-workover operations with the tree removed.

1. The minimum BOP-system components when the expected surface pressure is less than or equal to 5,000 psi shall include one annular-type well control component, one set of pipe rams, and one set of blind-shear rams.

2. The minimum BOP-system components when the expected surface pressure is greater than 5,000 psi shall include one annular-type well control component, two sets of pipe rams, and one set of blind-shear rams.

3. BOP auxiliary equipment in accordance with the requirements of LAC 43:XIX.207.E.

4. When coming out of the hole with drill pipe or a workover string, the annulus shall be filled with well-control fluid before the change in such fluid level decreases the hydrostatic pressure 75 pounds per square inch (psi) or every five stands of drill pipe or workover string, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe or workover string and drill collars that may be pulled prior to filling the hole and the equivalent well-control fluid volume shall be calculated and posted near the operator's station. A mechanical, volumetric, or electronic device for measuring the amount of well-control fluid required to fill the hold shall be utilized.

5. The following well-control-fluid equipment shall be installed, maintained, and utilized:

- a. a fill-up line above the uppermost BOP;
- b. a well-control, fluid-volume measuring device for determining fluid volumes when filling the hole on trips; and
- c. a recording mud-pit-level indicator to determine mud-pit-volume gains and losses. This indicator shall include both a visual and an audible warning device.

E. The minimum BOP-system components for well-workover operations with the tree in place and performed

through the wellhead inside of conventional tubing using small-diameter jointed pipe (usually 3/4 inch to 1 1/4 inch) as a work string, i.e., small-tubing operations, shall include two sets of pipe rams, and one set of blind rams.

1. An essentially full-opening work-string safety valve in the open position on the rig floor shall be available at all times while well-workover operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the work string. A wrench to fit the work-string safety valve shall be stored in a location readily accessible to the workover crew.

F. For coiled tubing operations with the production tree in place, you must meet the following minimum requirements for the BOP system:

1. BOP system components must be in the following order from the top down when expected surface pressures are less than or equal to 3,500 psi:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically operated two-way slip rams;
- f. hydraulically operated pipe rams.

2. BOP system components must be in the following order from the top down when expected surface pressures are greater than 3,500 psi:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically-operated two-way slip rams;
- f. hydraulically-operated pipe rams;
- g. hydraulically-operated blind-shear rams. These rams should be located as close to the tree as practical.

3. BOP system components must be in the following order from the top down for wells with returns taken through an outlet on the BOP stack:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically-operated two-way slip rams;
- f. hydraulically-operated pipe rams;
- g. a flow tee or cross;
- h. hydraulically-operated pipe rams;
- i. hydraulically-operated blind-shear rams on wells

with surface pressures less than or equal to 3,500 psi. As an option, the pipe rams can be placed below the blind-shear rams. The blind-shear rams should be placed as close to the tree as practical.

4. A set of hydraulically-operated combination rams may be used for the blind rams and shear rams.

5. A set of hydraulically-operated combination rams may be used for the hydraulic two-way slip rams and the hydraulically-operated pipe rams.

6. A dual check valve assembly must be attached to the coiled tubing connector at the downhole end of the coiled tubing string for all coiled tubing well-workover operations. To conduct operations without a downhole check valve, it must be approved by the district manager.

7. A kill line and a separate choke line are required. Each line must be equipped with two full-opening valves

and at least one of the valves must be remotely controlled. A manual valve must be used instead of the remotely controlled valve on the kill line if a check valve is installed between the two full-opening manual valves and the pump or manifold. The valves must have a working pressure rating equal to or greater than the working pressure rating of the connection to which they are attached, and must be installed between the well control stack and the choke or kill line. For operations with expected surface pressures greater than 3,500 psi, the kill line must be connected to a pump or manifold. The kill line inlet on the BOP stack must not be used for taking fluid returns from the wellbore.

8. The hydraulic-actuating system must provide sufficient accumulator capacity to close-open-close each component in the BOP stack. This cycle must be completed with at least 200 psi above the pre-charge pressure without assistance from a charging system.

9. All connections used in the surface BOP system from the tree to the uppermost required ram must be flanged, including the connections between the well control stack and the first full-opening valve on the choke line and the kill line.

10. The coiled tubing connector must be tested to a low pressure of 200 to 300 psi, followed by a high pressure test to the rated working pressure of the connector or the expected surface pressure, whichever is less. The dual check valves must be successfully pressure tested to the rated working pressure of the connector, the rated working pressure of the dual check valve, expected surface pressure, or the collapse pressure of the coiled tubing, whichever is less.

G. The minimum BOP-system components for well-workover operations with the tree in place and performed by moving tubing or drill pipe in or out of a well under pressure utilizing equipment specifically designed for that purpose, i.e., snubbing operations, shall include the following:

1. one set of pipe rams hydraulically operated; and
2. two sets of stripper-type pipe rams hydraulically operated with spacer spool.

H. Test pressures must be recorded during BOP and coiled tubing tests on a pressure chart, or with a digital recorder, unless otherwise approved by the district manager. The test interval for each BOP system component must be 5 minutes, except for coiled tubing operations, which must include a 10 minute high-pressure test for the coiled tubing string.

I. Wireline Operations. The operator shall comply with the following requirements during routine, as defined in Subsection A of this Section, and nonroutine wireline workover operations.

1. Wireline operations shall be conducted so as to minimize leakage of well fluids. Any leakage that does occur shall be contained to prevent pollution.

2. All wireline perforating operations and all other wireline operations where communication exists between the completed hydrocarbon-bearing zone(s) and the wellbore shall use a lubricator assembly containing at least one wireline valve.

3. When the lubricator is initially installed on the well, it shall be successfully pressure tested to the expected shut-in surface pressure.

J. Following completion of the well-workover activity, all such records shall be retained by the operator for a period of two years.

K. An essentially full-opening work-string safety valve in the open position on the rig floor shall be available at all times while well-workover operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the work string. A wrench to fit the work-string safety valve shall be stored in a location readily accessible to the workover crew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

### **§213. Diesel Engine Safety Requirements**

A. Each diesel engine with an air take device must be equipped to shut down the diesel engine in the event of a runaway.

1. A diesel engine that is not continuously manned, must be equipped with an automatic shutdown device.

2. A diesel engine that is continuously manned, may be equipped with either an automatic or remote manual air intake shutdown device.

3. A diesel engine does not have to be equipped with an air intake device if it meets one of the following criteria:

- a. starts a larger engine;
- b. powers a firewater pump;
- c. powers an emergency generator;
- d. powers a BOP accumulator system;
- e. provides air supply to divers or confined entry personnel;
- f. powers temporary equipment on a nonproducing platform;
- g. powers an escape capsule; or
- h. powers a portable single-cylinder rig washer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

### **§215. Drilling Fluids**

A. The inspectors and engineers of the Office of Conservation shall have access to the mud records of any drilling well, except those records which pertain to special muds and special work with respect to patentable rights, and shall be allowed to conduct any essential test or tests on the mud used in the drilling of a well. When the conditions and tests indicate a need for a change in the mud or drilling fluid program in order to insure proper control of the well, the district manager shall require the operator or company to use due diligence in correcting any objectionable conditions.

B. Well-control fluids, equipment, and operations shall be designed, utilized, maintained, and/or tested as necessary to control the well in foreseeable conditions and circumstances.

C. The well shall be continuously monitored during all operations and shall not be left unattended at any time unless the well is shut in and secured.

D. The following well-control-fluid equipment shall be installed, maintained, and utilized:

1. a fill-up line above the uppermost BOP;
2. a well-control, fluid-volume measuring device for determining fluid volumes when filling the hole on trips; and

3. a recording mud-pit-level indicator to determine mud-pit-volume gains and losses. This indicator shall include both a visual and an audible warning device.

#### E. Safe Practices

1. Before starting out of the hole with drill pipe, the drilling fluid must be properly conditioned. A volume of drilling fluid equal to the annular volume must be circulated with the drill pipe just off-bottom. This practice may be omitted if documentation in the driller's report shows:

a. no indication of formation fluid influx before starting to pull the drill pipe from the hole.

b. the weight of returning drilling fluid is within 0.2 pounds per gallon of the drilling fluid entering the hole;

2. Record each time drilling fluid is circulated in the hole in the driller's report.

3. When coming out of the hole with drill pipe, the annulus must be filled with drilling fluid before the hydrostatic pressure decreases by 75 psi, or every five stands of drill pipe, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe and drill collars that you may pull must be calculated before you fill the hole. Both sets of numbers must be posted near the driller's station. A mechanical, volumetric, or electronic device must be used to measure the drilling fluid required to fill the hole.

4. Controlled rates must be used to run and pull drill pipe and downhole tools so you do not swab or surge the well.

5. When there is an indication of swabbing or influx of formation fluids, appropriate measures must be taken to control the well. Circulate and condition the well, on or near-bottom, unless well or drilling-fluid conditions prevent running the drill pipe back to the bottom.

6. The maximum pressures must be calculated and posted near the driller's console that you may safely contain under a shut-in BOP for each casing string. The pressures posted must consider the surface pressure at which the formation at the shoe would break down, the rated working pressure of the BOP stack, and 70 percent of casing burst (or casing test as approved by the district manager). As a minimum, you must post the following two pressures:

a. the surface pressure at which the shoe would break down. This calculation must consider the current drilling fluid weight in the hole; and

b. the lesser of the BOP's rated working pressure or 70 percent of casing-burst pressure (or casing test otherwise approved by the district manager).

7. An operable drilling fluid-gas separator and degasser must be installed before you begin drilling operations. This equipment must be maintained throughout the drilling of the well.

8. The test fluids in the hole must be circulated or reverse circulated before pulling drill-stem test tools from the hole. If circulating out test fluids is not feasible, with an appropriate kill weight fluid test fluids may be bullheaded out of the drill-stem test string and tools.

9. When circulating, the drilling fluid must be tested at least once each work shift or more frequently if conditions warrant. The tests must conform to industry-accepted practices and include density, viscosity, and gel strength; hydrogen ion concentration; filtration; and any other tests the district manager requires for monitoring and maintaining drilling fluid quality, prevention of downhole equipment

problems and for kick detection. The test results must be recorded in the drilling fluid report.

#### F. Monitoring Drilling Fluids

1. Once drilling fluid returns are established, the following drilling fluid-system monitoring equipment must be installed throughout subsequent drilling operations. This equipment must have the following indicators on the rig floor:

a. pit level indicator to determine drilling fluid-pit volume gains and losses. This indicator must include both a visual and an audible warning device;

b. volume measuring device to accurately determine drilling fluid volumes required to fill the hole on trips;

c. return indicator devices that indicate the relationship between drilling fluid-return flow rate and pump discharge rate. This indicator must include both a visual and an audible warning device; and

d. gas-detecting equipment to monitor the drilling fluid returns. The indicator may be located in the drilling fluid-logging compartment or on the rig floor. If the indicators are only in the logging compartment, you must continually man the equipment and have a means of immediate communication with the rig floor. If the indicators are on the rig floor only, an audible alarm must be installed.

#### G. Drilling Fluid Quantities

1. Quantities of drilling fluid and drilling fluid materials must be maintained and replenished at the drill site as necessary to ensure well control. These quantities must be determined based on known or anticipated drilling conditions, rig storage capacity, weather conditions, and estimated time for delivery.

2. The daily inventories of drilling fluid and drilling fluid materials must be recorded, including weight materials and additives in the drilling fluid report.

3. If there are not sufficient quantities of drilling fluid and drilling fluid material to maintain well control, the drilling operations must be suspended.

#### H. Drilling fluid-handling Areas

1. Drilling Fluid-Handling areas must be classified according to API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities, Classified as Class I, Division 1 and Division 2 or API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities, Classified as Class 1, Zone 0, Zone 1, and Zone 2. In areas where dangerous concentrations of combustible gas may accumulate. A ventilation system and gas monitors must be installed and maintained. Drilling fluid-handling areas must have the following safety equipment.

a. a ventilation system capable of replacing the air once every five minutes or 1.0 cubic feet of air-volume flow per minute, per square foot of area, whichever is greater. In addition:

i. if natural means provide adequate ventilation, then a mechanical ventilation system is not necessary;

ii. if a mechanical system does not run continuously, then it must activate when gas detectors indicate the presence of one percent or more of combustible gas by volume; and

iii. if discharges from a mechanical ventilation system may be hazardous, the drilling fluid-handling area must be maintained at a negative pressure. The negative pressure area must be protected by using at least one of the following: a pressure-sensitive alarm, open-door alarms on each access to the area, automatic door-closing devices, air locks, or other devices approved by the district manager;

b. gas detectors and alarms except in open areas where adequate ventilation is provided by natural means. Gas detectors must be tested and recalibrated quarterly. No more than 90 days may elapse between tests;

c. explosion-proof or pressurized electrical equipment to prevent the ignition of explosive gases. Where air is used for pressuring equipment, the air intake must be located outside of and as far as practicable from hazardous areas; and

d. alarms that activate when the mechanical ventilation system fails.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

#### **Subpart 4. Statewide Order No. 29-B-a**

### **Chapter 11. Required Use of Storm Chokes**

#### **§1101. Scope**

A. Order establishing rules and regulations concerning the required use of storm chokes to prevent blowouts or uncontrolled flow in the case of damage to surface equipment.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:1127 (October 1994), LR 36:

#### **§1103. Applicability**

A. All wells capable of flow with a surface pressure in excess of 100 pounds, falling within the following categories, shall be equipped with storm chokes:

1. any locations inaccessible during periods of storm and/or floods, including spillways;

2. located in bodies of water being actively navigated;

3. located in wildlife refuges and/or game preserves;

4. located within 660 feet of railroads, ship channels, and other actively navigated bodies of water;

5. located within 660 feet of state and federal highways in Southeast Louisiana, in that area East of a North-South line drawn through New Iberia and South of an East-West line through Opelousas;

6. located within 660 feet of state and federal highways in Northeast Louisiana, in that area bounded on the West by the Ouachita River, on the North by the Arkansas-Louisiana line, on the East by the Mississippi River, and on the South by the Black and Red Rivers;

7. located within 660 feet of the following highways:

a. U.S. Highway 71 between Alexandria and Krotz Springs;

b. U.S. Highway 190 between Opelousas and Krotz Springs;

c. U.S. Highway 90 between Lake Charles and the Sabine River;

8. located within the corporate limits of any city, town, village, or other municipality.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:1128 (October 1994), LR 36:

#### **§1104. General Requirements for Storm Choke Use at Water Locations**

A. This Section only applies to oil and gas wells at water locations.

B. A subsurface safety valve shall be designed, installed, used, maintained, and tested to ensure reliable operation.

1. The device shall be installed at a depth of 100 feet or more below the seafloor within two days after production is established.

2. Until a subsurface safety device is installed, the well shall be attended in the immediate vicinity so that emergency actions may be taken while the well is open to flow. During testing and inspection procedures, the well shall not be left unattended while open to production unless a properly operating subsurface-safety device has been installed in the well.

3. The well shall not be open to flow while the subsurface safety device is removed, except when flowing of the well is necessary for a particular operation such as cutting paraffin, bailing sand, or similar operations.

4. All SSSV's must be inspected, installed, used, maintained, and tested in accordance with American Petroleum Institute Recommended Practice 14B, Recommended Practice for Design, Installation, Repair, and Operation of Subsurface Safety Valve Systems.

C. Temporary Removal for Routine Operations

1. Each wireline or pumpdown-retrievable subsurface safety device may be removed, without further authorization or notice, for a routine operation which does not require the approval of Form DM-4R,

2. The well shall be identified by a sign on the wellhead stating that the subsurface safety device has been removed. If the master valve is open, a trained person shall be in the immediate vicinity of the well to attend the well so that emergency actions may be taken, if necessary.

3. A platform well shall be monitored, but a person need not remain in the well-bay area continuously if the master valve is closed. If the well is on a satellite structure, it must be attended or a pump-through plug installed in the tubing at least 100 feet below the mud line and the master valve closed, unless otherwise approved by the district manager.

4. Each operator shall maintain records indicating the date a subsurface safety valve is removed, the reason for its removal, and the date it is reinstalled

D. Emergency Action. In the event of an emergency, such as an impending storm, any well not equipped with a subsurface safety device and which is capable of natural flow shall have the device properly installed as soon as possible with due consideration being given to personnel safety.

E. Design and Operation

1. All SSSVs must be inspected, installed, maintained, and tested in accordance with API RP 14H, Recommended Practice for Installation, Maintenance, and Repair of Surface Safety Valves and Underwater Safety Valves Offshore.

2. Testing requirements for subsurface safety devices are as follows.

a. All SSSV's shall be tested for operation and for leakage at least once each calendar month, but at no time shall more than six weeks elapse between tests. SSSV's must be tested in accordance with the test procedures specified in API RP 14H. If a SSSV does not operate properly or if any fluid flow is observed during the leakage test, the valve shall be repaired or replaced.

b. Each subsurface-controlled SSSV installed in a well shall be removed, inspected, and repaired or adjusted, as necessary, and reinstalled or replaced at intervals not exceeding 6 months for those valves not installed in a landing nipple and 12 months for those valves installed in a landing nipple.

3. Records must be retained for a period of two years for each safety device installed.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

**§1105. Waivers**

A. Onshore Wells. Where the use of storm chokes would unduly interfere with normal operation of a well, the district manager may, upon submission of pertinent data, in writing, waive the requirements of this order.

B. Offshore Wells

1. The district manager, upon submission of pertinent data, in writing explaining the efforts made to overcome the particular difficulties encountered, may waive the use of a subsurface safety valve under the following circumstances, and may, in his discretion, require in lieu thereof a surface safety valve:

a. where sand is produced to such an extent or in such a manner as to tend to plug the tubing or make inoperative the subsurface safety valve;

b. when the flowing pressure of the well is in excess of 100 psi but is inadequate to activate the subsurface safety valve;

c. where flow rate fluctuations or water production difficulties are so severe that the subsurface safety valve would prevent the well from producing at its allowable rate;

d. where mechanical well conditions do not permit the installation of a subsurface safety valve;

e. in such other cases as the district manager may deem necessary to grant an exception.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1961, amended March 15, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:1128 (October 1994), LR 36:

James H. Welsh  
Commissioner

1007#011

**DECLARATION OF EMERGENCY**

**Department of Natural Resources  
Office of Conservation**

Statewide Orders No. 29-B and 29-B-a  
(LAC 43:XIX.Chapters 2 and 11)

Pursuant to the power delegated under the laws of the State of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefore are now adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally, by amending and expanding the drilling and completion operational and safety requirements for wells drilled in search of oil and natural gas at water locations. The Emergency Rule signed by the Commissioner on June 15, 2010 and effective July 15, 2010 is hereby rescinded and replaced by the following Emergency Rule.

The Emergency Rule is intended to provide greater protection to the public health, safety and welfare of the people of the State, as well as the environment generally by adopting new operational and safety requirements for the drilling and completion of oil and gas wells at water locations. Specifically, the Emergency Rule creates a new Chapter within Statewide Order No. 29-B (LAC 43:XIX.Chapter 2) to provide additional rules concerning the drilling and completion of oil and gas wells at water locations, specifically providing for the following: rig movement and reporting requirements, additional requirements for applications to drill, casing-header requirements, mandatory diverter systems and blowout preventer requirements, oil and gas well-workover operations, diesel engine safety requirements, and drilling fluid regulations. Further, the Emergency Rule amends Statewide Order No. 29-B-a (LAC 43:XIX.Chapter 11) to provide for and expand upon rules concerning the use of storm chokes in oil and gas wells at water locations.

Recognizing the potential advantages of expanding the operational and safety requirements for the drilling and completion of oil and gas wells at water locations within the State, it has been determined that failure to establish such requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that drilling and completion of oil and gas wells at water locations within the State are undertaken in accordance with all reasonable care and protection to the health, safety of the public, oil and gas personnel, and the environment generally.

The effective date of the Emergency Rule, Amendment to Statewide Order No. 29-B (LAC 43:XIX.Chapter 2) and Statewide Order No. 29-B-a (LAC 43:XIX.Chapter 11) (Emergency Rule) set forth hereinafter is July 15, 2010. The Emergency Rule shall remain in effect for 120 days after its effective date.

### **Title 43**

## **NATURAL RESOURCES**

### **Part XIX. Office of Conservation—General Operations**

#### **Subpart 1. Statewide Order No. 29-B**

#### **Chapter 2. Additional Requirements for Water Locations**

##### **§201. Applicability**

A. In addition to the requirements set forth in Chapter 1 of this Subpart, all oil and gas wells being drilled or completed at a water location within the state and which are spud or on which workover operations commence on or after July 15, 2010 shall comply with this Chapter.

B. Unless otherwise stated herein, nothing within this Chapter shall alter the obligation of oil and gas operators to meet the requirements of Chapter 1 of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

##### **§203. Application to Drill**

A. In addition to the requirements set forth in Section 103 of this Subpart, at the time of submittal of an application for permit to drill, the applicant will provide an electronic copy on a disk of the associated drilling rig's Spill Prevention Control (SPC) plan that is required by DEQ pursuant to the provisions of Part IX of Title 33 of the Louisiana Administrative Code or any successor rule. Such plan shall become a part of the official well file. If the drilling rig to be used in drilling a permitted well changes between the date of the application and the date of drilling, the applicant shall provide an electronic copy on a disk of the SPC plan for the correct drilling rig within two business days of becoming aware of the change; but in no case shall the updated SPC plan be submitted after spudding of the well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

##### **§204. Rig Movement and Reporting**

A. The Operator must report the movement of all drilling and workover rig units on and off locations to the appropriate District Manager with the rig name, well serial number and expected time of arrival and departure.

B. Drilling operations on a platform with producing wells or other hydrocarbon flow must comply with the following:

1. An emergency shutdown station must be installed near the driller's console.

2. All producible wells located in the affected wellbay must be shut in below the surface and at the wellhead when:

a. a rig or related equipment is moved on and off a platform. This includes rigging up and rigging down activities within 500 feet of the affected platform;

b. a drilling unit is moved or skid between wells on a platform;

c. a mobile offshore drilling unit (MODU) moves within 500 feet of a platform.

3. Production may be resumed once the MODU is in place, secured, and ready to begin drilling operations.

C. The movement of rigs and related equipment on and off a platform or from well to well on the same platform, including rigging up and rigging down, shall be conducted in a safe manner. All wells in the same well-bay which are capable of producing hydrocarbons shall be shut in below the surface with a pump-through-type tubing plug and at the surface with a closed master valve prior to moving well-completion rigs and related equipment, unless otherwise approved by the district manager. A closed surface-controlled subsurface safety valve of the pump-through type may be used in lieu of the pump-through-type tubing plug, provided that the surface control has been locked out of operation. The well from which the rig or related equipment is to be moved shall also be equipped with a back-pressure valve prior to removing the blowout preventer (BOP) system and installing the tree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

##### **§205. Casing Program**

###### **A. General Requirements**

1. The operator shall case and cement all wells with a sufficient number of strings of casing and quantity and quality of cement in a manner necessary to prevent fluid migration in the wellbore, protect the underground source of drinking water (USDW) from contamination, support unconsolidated sediments, and otherwise provide a means of control of the formation pressures and fluids.

2. The operator shall install casing necessary to withstand collapse, bursting, tensile, and other stresses that may be encountered and the well shall be cemented in a manner which will anchor and support the casing. Safety factors in casing program design shall be of sufficient magnitude to provide optimum well control while drilling and to assure safe operations for the life of the well.

3. All tubulars and cement shall meet or exceed API standards. Cementing jobs shall be designed so that cement composition, placement techniques, and waiting times ensure that the cement placed behind the bottom 500 feet of casing attains a minimum compressive strength of 500 psi before drilling out of the casing or before commencing completion operations.

###### **4. Centralizers**

a. Surface casing shall be centralized by means of placing centralizers in the following manner.

i. A centralizer shall be placed on every third joint from the shoe to surface, with two centralizers being placed on each of the lowermost three joints of casing.

ii. If conductor pipe is set, three centralizers shall be equally spaced on surface casing to fall within the conductor pipe.

b. Intermediate and production casing, and drilling and production liners shall be centralized by means of a centralizer placed every third joint from the shoe to top of cement. Additionally, two centralizers shall be placed on each of the lowermost three joints of casing.

c. All centralizers shall meet API standards.

5. A copy of the documentation furnished by the manufacturer, if new, or supplier, if reconditioned, which certifies tubular condition, shall be provided with the Well History and Work Resume Report (Form WH-1).

B. Conductor Pipe. A conductor pipe is that pipe ordinarily used for the purpose of supporting unconsolidated surface deposits. A conductor pipe shall be used during the drilling of any oil and gas well and shall be set at depth that allows use of a diverter system.

C. Surface Casing

1. Where no danger of pollution of the USDW exists, the minimum amount of surface or first-intermediate casing to be set shall be determined from Table 1 hereof, except that in no case shall less surface casing be set than an amount needed to protect the USDW unless an alternative method of USDW protection is approved by the district manager.

Total Depth of Contact	Casing Required	Surface Casing Test Pressure (lbs. per sq. in.)
0-2500	100	300
2500-3000	150	600
3000-4000	300	600
4000-5000	400	600
5000-6000	500	750
6000-7000	800	1000
7000-8000	1000	1000
8000-9000	1400	1000
9000-Deeper	1800	1000

a. In known low-pressure areas, exceptions to the above may be granted by the commissioner or his agent. If, however, in the opinion of the commissioner, or his agent, the above regulations shall be found inadequate, and additional or lesser amount of surface casing and/or test pressure shall be required for the purpose of safety and the protection of the USDW.

2. Surface casing shall be cemented with a sufficient volume of cement to insure cement returns to the surface.

3. Surface casing shall be tested before drilling the plug by applying a minimum pump pressure as set forth in Table 1 after at least 200 feet of the mud-laden fluid has been displaced with water at the top of the column. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of test pressure as outlined in Table 1, the operator shall be required to take such corrective measures as will insure that such surface casing will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure. The provisions of Paragraph E.7, below, for the producing casing, shall also apply to the surface casing.

4. Cement shall be allowed to stand a minimum of 12 hours under pressure before initiating test or drilling plug. Under pressure is complied with if one float valve is used or if pressure is held otherwise.

D. Intermediate Casing/Drilling Liner

1. Intermediate casing is that casing used as protection against caving of heaving formations or when other means are not adequate for the purpose of segregating upper oil, gas or water-bearing strata. Intermediate casing/drilling liner shall be set when required by abnormal pressure or other well conditions.

2. If an intermediate casing string is deemed necessary by the district manager for the prevention of underground waste, such regulations pertaining to a minimum setting depth, quality of casing, and cementing and testing of sand, shall be determined by the Office of Conservation after due hearing. The provisions of Paragraph E.7 below, for the producing casing, shall also apply to the intermediate casing.

3. Intermediate casing/drilling liner shall be at minimum, cemented in such a manner, at least 500 feet above all known hydrocarbon bearing formations to insure isolation and, if applicable, all abnormal pressure formations are isolated from normal pressure formations, but in no case shall less cement be used than the amount necessary to fill the casing/liner annulus to a point 500 feet above the shoe or the top of the liner whichever is less. If a liner is used as an intermediate string, the cement shall be tested by a fluid entry test (-0.5 ppg EMW) to determine whether a seal between the liner top and next larger casing string has been achieved, and the liner-lap point must be at least 300 feet above the previous casing shoe. The drilling liner (and liner-lap) shall be tested to a pressure at least equal to the anticipated pressure to which the liner will be subjected to during the formation-integrity test below that liner shoe, or subsequent liner shoes if set. Testing shall be in accordance with Subsection G below.

4. Before drilling the plug in the intermediate string of casing, the casing shall be tested by pump pressure, as determined from Table 2 hereof, after 200 feet of mud-laden fluid in the casing has been displaced by water at the top of the column.

Depth Set	Test Pressure (lbs. per sq. in.)
2000-3000'	800
3000-6000'	1000
6000-9000'	1200
9000-and deeper	1500

a. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of the test pressure or more, the operator shall be required to take such corrective measures as will insure that casing is so set and cemented that it will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure on the gauge.

5. Cement shall be allowed to stand a minimum of 12 hours under pressure and a minimum total of 24 hours before initiating pressure test. Under pressure is complied with if one or more float valves are employed and are shown to be holding the cement in place, or when other means of holding pressure is used. When an operator elects to perforate and squeeze or to cement around the shoe, he may proceed with such work after 12 hours have elapsed after placing the first cement.

6. If the test is unsatisfactory, the operator shall not proceed with the drilling of the well until a satisfactory test has been obtained.

E. Producing String

1. Producing string, production casing or production liner is that casing used for the purpose of segregating the horizon from which production is obtained and affording a means of communication between such horizons and the surface.

2. The producing string of casing shall consist of new or reconditioned casing, tested at mill test pressure or as otherwise designated by the Office of Conservation.

3. Cement shall be by the pump-and-plug method, or another method approved by the Office of Conservation. Production casing/production liner shall be at minimum, cemented in such a manner, at least 500 feet above all known hydrocarbon bearing formations to insure isolation and, if applicable, all abnormal pressure formations are isolated from normal pressure formations, but in no case shall less cement be used than the amount necessary to fill the casing/liner annulus to a point 500 feet above the shoe or the top of the liner whichever is less. If a liner is used as a producing string, the cement shall be tested by a fluid entry test (-0.5 ppg EMW) to determine whether a seal between the liner top and next larger casing string has been achieved, and the liner-lap point must be at least 300 feet above the previous casing shoe. The production liner (and liner-lap) shall be tested to a pressure at least equal to the anticipated pressure to which the liner will be subjected to during the formation-integrity test below that liner shoe, or subsequent liner shoes if set. Testing shall be in accordance with Subsection G below.

4. The amount of cement to be left remaining in the casing, until the requirements of Paragraph 5 below have been met, shall be not less than 20 feet. This shall be accomplished through the use of a float-collar, or other approved or practicable means, unless a full-hole cementer, or its equivalent, is used.

5. Cement shall be allowed to stand a minimum of 12 hours under pressure and a minimum total of 24 hours before initiating pressure test in the producing or oil string. Under pressure is complied with if one or more float valves are employed and are shown to be holding the cement in place, or when other means of holding pressure is used. When an operator elects to perforate and squeeze or to cement around the shoe, he may proceed with such work after 12 hours have elapsed after placing the first cement.

6. Before drilling the plug in the producing string of casing, the casing shall be tested by pump pressure, as determined from Table 3 hereof, after 200 feet of mud-laden fluid in the casing has been displaced by water at the top of the column.

<b>Depth Set</b>	<b>Test Pressure (lbs. per sq. in.)</b>
2000-3000'	800
3000-6000'	1000
6000-9000'	1200
9000-and deeper	1500

a. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of the test pressure or more, the operator shall be required to take such corrective measures as will insure that the producing string of casing is so set and cemented that it will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure on the gauge.

7. If the commissioner's agent is not present at the time designated by the operator for inspection of the casing

tests of the producing string, the operator shall have such tests witnessed, preferably by an offset operator. An affidavit of test, on the form prescribed by the district office, signed by the operator and witness, shall be furnished to the district office showing that the test conformed satisfactorily to the above mentioned regulations before proceeding with the completion. If test is satisfactory, normal operations may be resumed immediately.

8. If the test is unsatisfactory, the operator shall not proceed with the completion of the well until a satisfactory test has been obtained.

**F. Cement Evaluation**

1. Cement evaluation tests (cement bond or temperature survey) shall be conducted for all casing and liners installed below surface casing to assure compliance with LAC 43:XIX.205.D.3 and E.3.

2. Remedial cementing operations that are required to achieve compliance with LAC 43:XIX.205.D.3 and E.3 shall be conducted following receipt of an approved work permit from the district manager for the proposed operations.

3. Cementing and wireline records demonstrating the presence of the required cement tops shall be retained by the operator for a period of two years.

**G. Leak-off Tests**

1. A pressure integrity test must be conducted below the surface casing or liner and all intermediate casings or liners. The district manager may require a pressure-integrity test at the conductor casing shoe if warranted by local geologic conditions or the planned casing setting depth. Each pressure integrity test must be conducted after drilling at least 10 feet but no more than 50 feet of new hole below the casing shoe and must be tested to either the formation leak-off pressure or to the anticipated equivalent drilling fluid weight at the setting depth of the next casing string.

a. The pressure integrity test and related hole-behavior observations, such as pore-pressure test results, gas-cut drilling fluid, and well kicks must be used to adjust the drilling fluid program and the setting depth of the next casing string. All test results must be recorded and hole-behavior observations made during the course of drilling related to formation integrity and pore pressure in the driller's report.

b. While drilling, a safe drilling margin must be maintained. When this safe margin cannot be maintained, drilling operations must be suspended until the situation is remedied.

**H. Prolonged Drilling Operations**

1. If wellbore operations continue for more than 30 days within a casing string run to the surface:

a. drilling operations must be stopped as soon as practicable, and the effects of the prolonged operations on continued drilling operations and the life of the well evaluated. At a minimum, the operator shall:

i. caliper or pressure test the casing; and  
 ii. report evaluation results to the district manager and obtain approval of those results before resuming operations;

b. if casing integrity as determined by the evaluation has deteriorated to a level below minimum safety factors, the casing must be repaired or another casing string run. Approval from the district manager shall be obtained prior to any casing repair activity.

## I. Tubing and Completion

1. Well-completion operations means the work conducted to establish the production of a well after the production-casing string has been set, cemented, and pressure-tested.

2. Prior to engaging in well-completion operations, crew members shall be instructed in the safety requirements of the operations to be performed, possible hazards to be encountered, and general safety considerations to protect personnel, equipment, and the environment. Date and time of safety meetings shall be recorded and available for review by the Office of Conservation.

3. When well-completion operations are conducted on a platform where there are other hydrocarbon-producing wells or other hydrocarbon flow, an emergency shutdown system (ESD) manually controlled station shall be installed near the driller's console or well-servicing unit operator's work station.

4. No tubing string shall be placed in service or continue to be used unless such tubing string has the necessary strength and pressure integrity and is otherwise suitable for its intended use.

5. A valve, or its equivalent, tested to a pressure of not less than the calculated bottomhole pressure of the well, shall be installed below any and all tubing outlet connections.

6. When a well develops a casing pressure, upon completion, equivalent to more than three-quarters of the internal pressure that will develop the minimum yield point of the casing, such well shall be required by the district manager to be killed, and a tubing packer to be set so as to keep such excessive pressure off of the casing.

7. Wellhead Connections. Wellhead connections shall be tested prior to installation at a pressure indicated by the district manager in conformance with conditions existing in areas in which they are used. Whenever such tests are made in the field, they shall be witnessed by an agent of the Office of Conservation. Tubing and tubingheads shall be free from obstructions in wells used for bottomhole pressure test purposes.

8. When the tree is installed, the wellhead shall be equipped so that all annuli can be monitored for sustained pressure. If sustained casing pressure is observed on a well, the operator shall immediately notify the district manager.

9. Wellhead, tree, and related equipment shall have a pressure rating greater than the shut-in tubing pressure and shall be designed, installed, used, maintained, and tested so as to achieve and maintain pressure control. New wells completed as flowing or gas-lift wells shall be equipped with a minimum of one master valve and one surface safety valve, installed above the master valve, in the vertical run of the tree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

### **§207. Diverter Systems and Blowout Preventers**

A. Diverter System. A diverter system shall be required when drilling surface hole in areas where drilling hazards are known or anticipated to exist. The district manager may, at his discretion, require the use of a diverter system on any well. In cases where it is required, a diverter system consisting of a diverter sealing element, diverter lines, and

control systems must be designed, installed, used, maintained, and tested to ensure proper diversion of gases, water, drilling fluids, and other materials away from facilities and personnel. The diverter system shall be designed to incorporate the following elements and characteristics:

1. dual diverter lines arranged to provide for maximum diversion capability;

2. at least two diverter control stations. One station shall be on the drilling floor. The other station shall be in a readily accessible location away from the drilling floor;

3. remote-controlled valves in the diverter lines. All valves in the diverter system shall be full-opening. Installation of manual or butterfly valves in any part of the diverter system is prohibited;

4. minimize the number of turns in the diverter lines, maximize the radius of curvature of turns, and minimize or eliminate all right angles and sharp turns;

5. anchor and support systems to prevent whipping and vibration;

6. rigid piping for diverter lines. The use of flexible hoses with integral end couplings in lieu of rigid piping for diverter lines shall be approved by the district manager.

#### B. Diverter Testing Requirements

1. When the diverter system is installed, the diverter components including the sealing element, diverter valves, control systems, stations and vent lines shall be function and pressure tested.

2. For drilling operations with a surface wellhead configuration, the system shall be function tested at least once every 24-hour period after the initial test.

3. After nipping-up on conductor casing, the diverter sealing element and diverter valves are to be pressure tested to a minimum of 200 psig. Subsequent pressure tests are to be conducted within seven days after the previous test.

4. Function tests and pressure tests shall be alternated between control stations.

#### 5. Recordkeeping Requirements

a. Pressure and function tests are to be recorded in the driller's report and certified (signed and dated) by the operator's representative.

b. The control station used during a function or pressure test is to be recorded in the driller's report.

c. Problems or irregularities during the tests are to be recorded along with actions taken to remedy same in the driller's report.

d. All reports pertaining to diverter function and/or pressure tests are to be retained for inspection at the wellsite for the duration of drilling operations.

C. BOP Systems. The operator shall specify and insure that contractors design, install, use, maintain and test the BOP system to ensure well control during drilling, workover and all other appropriate operations. The surface BOP stack shall be installed before drilling below surface casing.

1. BOP system components for drilling activity located over a body of water shall be designed and utilized, as necessary, to control the well under all potential conditions that might occur during the operations being conducted and at minimum, shall include the following components:

- a. annular-type well control component;
- b. hydraulically-operated blind rams;

- c. hydraulically-operated shear rams.
  - d. two sets of hydraulically-operated pipe rams.
2. Drilling activity with a tapered drill string shall require the installation of two or more sets of conventional or variable-bore pipe rams in the BOP stack to provide, at minimum, two sets of rams capable of sealing around the larger-size drill string and one set of pipe rams capable of sealing around the smaller-size drill string.
  3. A set of hydraulically-operated combination rams may be used for the blind rams and shear rams.
  4. All connections used in the surface BOP system must be flanged, including the connections between the well control stack and the first full-opening valve on the choke line and the kill line.
  5. The Commissioner of Conservation, following a public hearing, may grant exceptions to the requirements of LAC 43:XIX.207.C-J.

D. BOP Working Pressure. The working pressure rating of any BOP component, excluding annular-type preventers, shall exceed the maximum anticipated surface pressure (MASP) to which it may be subjected.

E. BOP Auxiliary Equipment. All BOP systems shall be equipped and provided with the following.

1. A hydraulically actuated accumulator system which shall provide 1.5 times volume of fluid capacity to close and hold closed all BOP components, with a minimum pressure of 200 psig above the pre-charge pressure without assistance from a charging system.
2. A backup to the primary accumulator-charging system, supplied by a power source independent from the power source to the primary, which shall be sufficient to close all BOP components and hold them closed.
3. Accumulator regulators supplied by rig air without a secondary source of pneumatic supply shall be equipped with manual overrides or other devices to ensure capability of hydraulic operation if the rig air is lost.
4. At least one operable remote BOP control station in addition to the one on the drilling floor. This control station shall be in a readily accessible location away from the drilling floor. If a BOP control station does not perform properly, operations shall be suspended until that station is operable.
5. A drilling spool with side outlets, if side outlets are not provided in the body of the BOP stack, to provide for separate kill and choke lines.
6. A kill line and a separate choke line are required. Each line must be equipped with two full-opening valves and at least one of the valves must be remotely controlled. The choke line shall be installed above the bottom ram. A manual valve must be used instead of the remotely controlled valve on the kill line if a check valve is installed between the two full-opening manual valves and the pump or manifold. The valves must have a working pressure rating equal to or greater than the working pressure rating of the connection to which they are attached, and must be installed between the well control stack and the choke or kill line. For operations with expected surface pressures greater than 3,500 psi, the kill line must be connected to a pump or manifold. The kill line inlet on the BOP stack must not be used for taking fluid returns from the wellbore.

7. A valve installed below the swivel (upper Kelly cock), essentially full-opening, and a similar valve installed at the bottom of the Kelly (lower Kelly cock). An operator must be able to strip the lower Kelly cock through the BOP stack. A wrench to fit each valve shall be stored in a location readily accessible to the drilling crew. If drilling with a mud motor and utilizing drill pipe in lieu of a Kelly, you must install one Kelly valve above, and one strippable Kelly valve below the joint of pipe used in place of a Kelly. On a top-drive system equipped with a remote-controlled valve, you must install a strippable Kelly-type valve below the remote-controlled valve.

8. An essentially full-opening drill-string safety valve in the open position on the rig floor shall be available at all times while drilling operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the drill string. A wrench to fit the drill-string safety valve shall be stored in a location readily accessible to the drilling crew.

9. A safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string being run in the hole.

10. Locking devices installed on the ram-type preventers.

#### F. BOP Maintenance and Testing Requirements

1. The BOP system shall be visually inspected on a daily basis.

2. Pressure tests (low and high pressure) of the BOP system are to be conducted at the following times and intervals:

- a. during a shop test prior to transport of the BOPs to the drilling location. Shop tests are not required for equipment that is transported directly from one well location to another;

- b. immediately following installation of the BOPs;

- c. within 14 days of the previous BOP pressure test, alternating between control stations and at a staggered interval to allow each crew to operate the equipment. If either control system is not functional, further operations shall be suspended until the nonfunctional, system is operable. Exceptions may be granted by the district manager in cases where a trip is scheduled to occur within 2 days after the 14-day testing deadline;

- d. before drilling out each string of casing or liner (The district manager may require that a conservation enforcement specialist witness the test prior to drilling out each casing string or liner);

- e. not more than 48 hours before a well is drilled to a depth that is within 1000 feet of a hydrogen sulfide zone (The district manager may require that a conservation enforcement specialist witness the test prior to drilling to a depth that is within 1000 feet of a hydrogen sulfide zone);

- f. when the BOP tests are postponed due to well control problem(s), the BOP test is to be performed on the first trip out of the hole, and reasons for postponing the testing are to be recorded in the driller's report.

3. Low pressure tests (200-300 psig) of the BOP system (choke manifold, Kelly valves, drill-string safety valves, etc.) are to be performed at the times and intervals specified in LAC 43:XIX.207.F.2. in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Variable bore pipe rams are to be tested against the largest and smallest sizes of pipe in use, excluding drill collars and bottom hole assembly.

c. Bonnet seals are to be tested before running the casing when casing rams are installed in the BOP stack.

4. High pressure tests of the BOP system are to be performed at the times and intervals specified in LAC 43:XIX.207.F.2 in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Ram-type BOP's, choke manifolds, and associated equipment are to be tested to the rated working pressure of the equipment or 500 psi greater than the calculated MASP for the applicable section of the hole.

c. Annular-type BOPs are to be tested to 70 percent of the rated working pressure of the equipment.

5. The annular and ram-type BOPs with the exception of the blind-shear rams are to be function tested every seven days between pressure tests. All BOP test records should be certified (signed and dated) by the operator's representative.

a. Blind-shear rams are to be tested at all casing points and at an interval not to exceed 30 days.

6. If the BOP equipment does not hold the required pressure during a test, the problem must be remedied and a retest of the affected component(s) performed. Additional BOP testing requirements:

a. use water to test the surface BOP system;

b. if a control station is not functional operations shall be suspended until that station is operable;

c. test affected BOP components following the disconnection or repair of any well-pressure containment seal in the wellhead or BOP stack assembly.

G. BOP Record Keeping. The time, date and results of pressure tests, function tests, and inspections of the BOP system are to be recorded in the driller's report. All pressure tests shall be recorded on an analog chart or digital recorder. All documents are to be retained for inspection at the wellsite for the duration of drilling operations and are to be retained in the operator's files for a period of two years.

H. BOP Well Control Drills. Weekly well control drills with each drilling crew are to be conducted during a period of activity that minimizes the risk to drilling operations. The drills must cover a range of drilling operations, including drilling with a diverter (if applicable), on-bottom drilling, and tripping. Each drill must be recorded in the driller's report and is to include the time required to close the BOP system, as well as, the total time to complete the entire drill.

I. Well Control Safety Training. In order to ensure that all drilling personnel understand and can properly perform their duties prior to drilling wells which are subject to the jurisdiction of the Office of Conservation, the operator shall require that contract drilling companies provide and/or implement the following:

1. periodic training for drilling contractor employees which ensures that employees maintain an understanding of, and competency in, well control practices;

2. procedures to verify adequate retention of the knowledge and skills that the contract drilling employees need to perform their assigned well control duties.

## J. Well Control Operations

1. The operator must take necessary precautions to keep wells under control at all times and must:

a. use the best available and safest drilling technology to monitor and evaluate well conditions and to minimize the potential for the well to flow or kick;

b. have a person onsite during drilling operations who represents the operators interests and can fulfill the operators responsibilities;

c. ensure that the tool pusher, operator's representative, or a member of the drilling crew maintains continuous surveillance on the rig floor from the beginning of drilling operations until the well is completed or abandoned, unless you have secured the well with blowout preventers (BOPs), bridge plugs, cement plugs, or packers;

d. use and maintain equipment and materials necessary to ensure the safety and protection of personnel, equipment, natural resources, and the environment.

2. Whenever drilling operations are interrupted, a downhole safety device must be installed, such as a cement plug, bridge plug, or packer. The device must be installed at an appropriate depth within a properly cemented casing string or liner.

a. Among the events that may cause interruption to drilling operations are:

i. evacuation of the drilling crew;

ii. inability to keep the drilling rig on location; or

iii. repair to major drilling or well-control equipment.

3. If the diverter or BOP stack is nipped down while waiting on cement, it must be determined, before nipping down, when it will be safe to do so based on knowledge of formation conditions, cement composition, effects of nipping down, presence of potential drilling hazards, well conditions during drilling, cementing, and post cementing, as well as past experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

### §209. Casing-Heads

A. All wells shall be equipped with casing-heads with a test pressure in conformance with conditions existing in areas in which they are used. Casing-head body, as soon as installed shall be equipped with proper connections and valves accessible to the surface. Reconditioning shall be required on any well showing pressure on the casing-head, or leaking gas or oil between the oil string and next larger size casing string, when, in the opinion of the district managers, such pressure or leakage assume hazardous proportions or indicate the existence of underground waste. Mud-laden fluid may be pumped between any two strings of casing at the top of the hole, but no cement shall be used except by special permission of the commissioner or his agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

### §211. Oil and Gas Well-Workover Operations

A. Definitions. When used in this section, the following terms shall have the meanings given below.

*Expected Surface Pressure*—the highest pressure predicted to be exerted upon the surface of a well. In calculating expected surface pressure, reservoir pressure as well as applied surface pressure must be considered.

*Routine Operations*—any of the following operations conducted on a well with the tree installed including cutting paraffin, removing and setting pump-through-type tubing plugs, gas-lift valves, and subsurface safety valves which can be removed by wireline operations, bailing sand, pressure surveys, swabbing, scale or corrosion treatment, caliper and gauge surveys, corrosion inhibitor treatment, removing or replacing subsurface pumps, through-tubing logging, wireline fishing, and setting and retrieving other subsurface flow-control devices.

*Workover Operations*—the work conducted on wells after the initial completion for the purpose of maintaining or restoring the productivity of a well.

B. When well-workover operations are conducted on a well with the tree removed, an emergency shutdown system (ESD) manually controlled station shall be installed near the driller's console or well-servicing unit operator's work station, except when there is no other hydrocarbon-producing well or other hydrocarbon flow on the platform.

C. Prior to engaging in well-workover operations, crew members shall be instructed in the safety requirements of the operations to be performed, possible hazards to be encountered, and general safety considerations to protect personnel, equipment, and the environment. Date and time of safety meetings shall be recorded and available for review.

D. Well-control fluids, equipment, and operations. The following requirements apply during all well-workover operations with the tree removed.

1. The minimum BOP-system components when the expected surface pressure is less than or equal to 5,000 psi shall include one annular-type well control component, one set of pipe rams, and one set of blind-shear rams. The shear ram component of this requirement shall be effective for any workover operations initiated on or after January 1, 2011 and not before.

2. The minimum BOP-system components when the expected surface pressure is greater than 5,000 psi shall include one annular-type well control component, two sets of pipe rams, and one set of blind-shear rams. The shear ram component of this requirement shall be effective for any workover operations initiated on or after January 1, 2011 and not before.

3. BOP auxiliary equipment in accordance with the requirements of LAC 43:XIX.207.E.

4. When coming out of the hole with drill pipe or a workover string, the annulus shall be filled with well-control fluid before the change in such fluid level decreases the hydrostatic pressure 75 pounds per square inch (psi) or every five stands of drill pipe or workover string, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe or workover string and drill collars that may be pulled prior to filling the hole and the equivalent well-control fluid volume shall be calculated and posted near the operator's station. A mechanical, volumetric, or electronic device for measuring the amount of well-control fluid required to fill the hold shall be utilized.

5. The following well-control-fluid equipment shall be installed, maintained, and utilized:

- a. a fill-up line above the uppermost BOP;
- b. a well-control, fluid-volume measuring device for determining fluid volumes when filling the hole on trips; and
- c. a recording mud-pit-level indicator to determine mud-pit-volume gains and losses. This indicator shall include both a visual and an audible warning device.

E. The minimum BOP-system components for well-workover operations with the tree in place and performed through the wellhead inside of conventional tubing using small-diameter jointed pipe (usually 3/4 inch to 1 1/4 inch) as a work string, i.e., small-tubing operations, shall include two sets of pipe rams, and one set of blind rams.

1. An essentially full-opening work-string safety valve in the open position on the rig floor shall be available at all times while well-workover operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the work string. A wrench to fit the work-string safety valve shall be stored in a location readily accessible to the workover crew.

F. For coiled tubing operations with the production tree in place, you must meet the following minimum requirements for the BOP system.

1. BOP system components must be in the following order from the top down when expected surface pressures are less than or equal to 3,500 psi:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically operated two-way slip rams;
- f. hydraulically operated pipe rams.

2. BOP system components must be in the following order from the top down when expected surface pressures are greater than 3,500 psi:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically-operated two-way slip rams;
- f. hydraulically-operated pipe rams;
- g. hydraulically-operated blind-shear rams. These rams should be located as close to the tree as practical.

3. BOP system components must be in the following order from the top down for wells with returns taken through an outlet on the BOP stack:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically-operated two-way slip rams;
- f. hydraulically-operated pipe rams;
- g. a flow tee or cross;
- h. hydraulically-operated pipe rams;
- i. hydraulically-operated blind-shear rams on wells

with surface pressures less than or equal to 3,500 psi. As an option, the pipe rams can be placed below the blind-shear rams. The blind-shear rams should be placed as close to the tree as practical.

4. A set of hydraulically-operated combination rams may be used for the blind rams and shear rams.

5. A set of hydraulically-operated combination rams may be used for the hydraulic two-way slip rams and the hydraulically-operated pipe rams.

6. A dual check valve assembly must be attached to the coiled tubing connector at the downhole end of the coiled tubing string for all coiled tubing well-workover operations. To conduct operations without a downhole check valve, it must be approved by the District Manager.

7. A kill line and a separate choke line are required. Each line must be equipped with two full-opening valves and at least one of the valves must be remotely controlled. A manual valve must be used instead of the remotely controlled valve on the kill line if a check valve is installed between the two full-opening manual valves and the pump or manifold. The valves must have a working pressure rating equal to or greater than the working pressure rating of the connection to which they are attached, and must be installed between the well control stack and the choke or kill line. For operations with expected surface pressures greater than 3,500 psi, the kill line must be connected to a pump or manifold. The kill line inlet on the BOP stack must not be used for taking fluid returns from the wellbore.

8. The hydraulic-actuating system must provide sufficient accumulator capacity to close-open-close each component in the BOP stack. This cycle must be completed with at least 200 psi above the pre-charge pressure without assistance from a charging system.

9. All connections used in the surface BOP system from the tree to the uppermost required ram must be flanged, including the connections between the well control stack and the first full-opening valve on the choke line and the kill line.

10. The coiled tubing connector must be tested to a low pressure of 200 to 300 psi, followed by a high pressure test to the rated working pressure of the connector or the expected surface pressure, whichever is less. The dual check valves must be successfully pressure tested to the rated working pressure of the connector, the rated working pressure of the dual check valve, expected surface pressure, or the collapse pressure of the coiled tubing, whichever is less.

G. The minimum BOP-system components for well-workover operations with the tree in place and performed by moving tubing or drill pipe in or out of a well under pressure utilizing equipment specifically designed for that purpose, i.e., snubbing operations, shall include the following:

1. one set of pipe rams hydraulically operated; and
2. two sets of stripper-type pipe rams hydraulically operated with spacer spool.

H. Test pressures must be recorded during BOP and coiled tubing tests on a pressure chart, or with a digital recorder, unless otherwise approved by the district manager. The test interval for each BOP system component must be 5 minutes, except for coiled tubing operations, which must include a 10 minute high-pressure test for the coiled tubing string.

I. Wireline Operations. The operator shall comply with the following requirements during routine, as defined in Subsection A of this section, and nonroutine wireline workover operations:

1. Wireline operations shall be conducted so as to minimize leakage of well fluids. Any leakage that does occur shall be contained to prevent pollution.

2. All wireline perforating operations and all other wireline operations where communication exists between the completed hydrocarbon-bearing zone(s) and the wellbore shall use a lubricator assembly containing at least one wireline valve.

3. When the lubricator is initially installed on the well, it shall be successfully pressure tested to the expected shut-in surface pressure.

J. Following completion of the well-workover activity, all such records shall be retained by the operator for a period of two years.

K. An essentially full-opening work-string safety valve in the open position on the rig floor shall be available at all times while well-workover operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the work string. A wrench to fit the work-string safety valve shall be stored in a location readily accessible to the workover crew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

#### **§213. Diesel Engine Safety Requirements**

A. On or after January 1, 2011, each diesel engine with an air take device must be equipped to shut down the diesel engine in the event of a runaway.

1. A diesel engine that is not continuously manned, must be equipped with an automatic shutdown device.

2. A diesel engine that is continuously manned, may be equipped with either an automatic or remote manual air intake shutdown device.

3. A diesel engine does not have to be equipped with an air intake device if it meets one of the following criteria:

- a. starts a larger engine;
- b. powers a firewater pump;
- c. powers an emergency generator;
- d. powers a BOP accumulator system;
- e. provides air supply to divers or confined entry personnel;
- f. powers temporary equipment on a nonproducing platform;
- g. powers an escape capsule; or
- h. powers a portable single-cylinder rig washer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

#### **§215. Drilling Fluids**

A. The inspectors and engineers of the Office of Conservation shall have access to the mud records of any drilling well, except those records which pertain to special muds and special work with respect to patentable rights, and shall be allowed to conduct any essential test or tests on the mud used in the drilling of a well. When the conditions and tests indicate a need for a change in the mud or drilling fluid program in order to insure proper control of the well, the district manager shall require the operator or company to use due diligence in correcting any objectionable conditions.

B. Well-control fluids, equipment, and operations shall be designed, utilized, maintained, and/or tested as necessary to control the well in foreseeable conditions and circumstances.

C. The well shall be continuously monitored during all operations and shall not be left unattended at any time unless the well is shut in and secured.

D. The following well-control-fluid equipment shall be installed, maintained, and utilized:

1. a fill-up line above the uppermost BOP;
2. a well-control, fluid-volume measuring device for determining fluid volumes when filling the hole on trips; and
3. a recording mud-pit-level indicator to determine mud-pit-volume gains and losses. This indicator shall include both a visual and an audible warning device.

E. Safe Practices

1. Before starting out of the hole with drill pipe, the drilling fluid must be properly conditioned. A volume of drilling fluid equal to the annular volume must be circulated with the drill pipe just off-bottom. This practice may be omitted if documentation in the driller's report shows:

- a. No indication of formation fluid influx before starting to pull the drill pipe from the hole;
- b. The weight of returning drilling fluid is within 0.2 pounds per gallon of the drilling fluid entering the hole;

2. Record each time drilling fluid is circulated in the hole in the driller's report.

3. When coming out of the hole with drill pipe, the annulus must be filled with drilling fluid before the hydrostatic pressure decreases by 75 psi, or every five stands of drill pipe, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe and drill collars that may be pulled must be calculated before the hole is filled. Both sets of numbers must be posted near the driller's station. A mechanical, volumetric, or electronic device must be used to measure the drilling fluid required to fill the hole.

4. Controlled rates must be used to run and pull drill pipe and downhole tools so as not to swab or surge the well.

5. When there is an indication of swabbing or influx of formation fluids, appropriate measures must be taken to control the well. Circulate and condition the well, on or near-bottom, unless well or drilling-fluid conditions prevent running the drill pipe back to the bottom.

6. The maximum pressures must be calculated and posted near the driller's console that you may safely contain under a shut-in BOP for each casing string. The pressures posted must consider the surface pressure at which the formation at the shoe would break down, the rated working pressure of the BOP stack, and 70 percent of casing burst (or casing test as approved by the district manager). As a minimum, you must post the following two pressures:

a. The surface pressure at which the shoe would break down. This calculation must consider the current drilling fluid weight in the hole; and

b. The lesser of the BOP's rated working pressure or 70 percent of casing-burst pressure (or casing test otherwise approved by the district manager).

7. An operable drilling fluid-gas separator and degasser must be installed before you begin drilling operations. This equipment must be maintained throughout the drilling of the well.

8. The test fluids in the hole must be circulated or reverse circulated before pulling drill-stem test tools from the hole. If circulating out test fluids is not feasible, with an appropriate kill weight fluid test fluids may be bullhead out of the drill-stem test string and tools.

9. When circulating, the drilling fluid must be tested at least once each work shift or more frequently if conditions warrant. The tests must conform to industry-accepted practices and include density, viscosity, and gel strength; hydrogen ion concentration; filtration; and any other tests the district manager requires for monitoring and maintaining drilling fluid quality, prevention of downhole equipment problems and for kick detection. The test results must be recorded in the drilling fluid report.

F. Monitoring Drilling Fluids

1. Once drilling fluid returns are established, the following drilling fluid-system monitoring equipment must be installed throughout subsequent drilling operations. This equipment must have the following indicators on the rig floor:

a. Pit level indicator to determine drilling fluid-pit volume gains and losses. This indicator must include both a visual and an audible warning device;

b. Volume measuring device to accurately determine drilling fluid volumes required to fill the hole on trips;

c. Return indicator devices that indicate the relationship between drilling fluid-return flow rate and pump discharge rate. This indicator must include both a visual and an audible warning device; and

d. Gas-detecting equipment to monitor the drilling fluid returns. The indicator may be located in the drilling fluid-logging compartment or on the rig floor. If the indicators are only in the logging compartment, you must continually man the equipment and have a means of immediate communication with the rig floor. If the indicators are on the rig floor only, an audible alarm must be installed.

G. Drilling Fluid Quantities

1. Quantities of drilling fluid and drilling fluid materials must be maintained and replenished at the drill site as necessary to ensure well control. These quantities must be determined based on known or anticipated drilling conditions, rig storage capacity, weather conditions, and estimated time for delivery.

2. The daily inventories of drilling fluid and drilling fluid materials must be recorded, including weight materials and additives in the drilling fluid report.

3. If there are not sufficient quantities of drilling fluid and drilling fluid material to maintain well control, the drilling operations must be suspended.

H. Drilling Fluid-Handling Areas

1. Drilling fluid-handling areas must be classified according to API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities, Classified as Class I, Division 1 and Division 2 or API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities, Classified as Class 1, Zone 0, Zone 1, and Zone 2. In areas where dangerous concentrations of

combustible gas may accumulate. A ventilation system and gas monitors must be installed and maintained. Drilling fluid-handling areas must have the following safety equipment:

a. A ventilation system capable of replacing the air once every 5 minutes or 1.0 cubic feet of air-volume flow per minute, per square foot of area, whichever is greater. In addition:

i. if natural means provide adequate ventilation, then a mechanical ventilation system is not necessary;

ii. if a mechanical system does not run continuously, then it must activate when gas detectors indicate the presence of 1 percent or more of combustible gas by volume; and

iii. if discharges from a mechanical ventilation system may be hazardous, the drilling fluid-handling area must be maintained at a negative pressure. The negative pressure area must be protected by using at least one of the following: a pressure-sensitive alarm, open-door alarms on each access to the area, automatic door-closing devices, air locks, or other devices approved by the district manager;

b. Gas detectors and alarms except in open areas where adequate ventilation is provided by natural means. Gas detectors must be tested and recalibrated quarterly. No more than 90 days may elapse between tests;

c. Explosion-proof or pressurized electrical equipment to prevent the ignition of explosive gases. Where air is used for pressuring equipment, the air intake must be located outside of and as far as practicable from hazardous areas; and

d. Alarms that activate when the mechanical ventilation system fails.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

#### **Subpart 4. Statewide Order No. 29-B-a**

### **Chapter 11. Required Use of Storm Chokes**

#### **§1101. Scope**

A. Order establishing rules and regulations concerning the required use of storm chokes to prevent blowouts or uncontrolled flow in the case of damage to surface equipment.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:1127 (October 1994), LR 36:

#### **§1103. Applicability**

A. All wells capable of flow with a surface pressure in excess of 100 pounds, falling within the following categories, shall be equipped with storm chokes:

1. any locations inaccessible during periods of storm and/or floods, including spillways;

2. located in bodies of water being actively navigated;

3. located in wildlife refuges and/or game preserves;

4. located within 660 feet of railroads, ship channels, and other actively navigated bodies of water;

5. located within 660 feet of state and federal highways in Southeast Louisiana, in that area East of a North-South line drawn through New Iberia and South of an East-West line through Opelousas;

6. located within 660 feet of state and federal highways in Northeast Louisiana, in that area bounded on the West by the Ouachita River, on the North by the Arkansas-Louisiana line, on the East by the Mississippi River, and on the South by the Black and Red Rivers;

7. located within 660 feet of the following highways:

a. U.S. Highway 71 between Alexandria and Krotz Springs;

b. U.S. Highway 190 between Opelousas and Krotz Springs;

c. U.S. Highway 90 between Lake Charles and the Sabine River;

8. located within the corporate limits of any city, town, village, or other municipality.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:1128 (October 1994).

#### **§1104. General Requirements for Storm Choke Use at Water Locations**

A. This Section only applies to oil and gas wells at water locations.

B. A subsurface safety valve (SSSV) shall be designed, installed, used, maintained, and tested to ensure reliable operation.

1. The device shall be installed at a depth of 100 feet or more below the seafloor within two days after production is established.

2. Until a SSSV is installed, the well shall be attended in the immediate vicinity so that emergency actions may be taken while the well is open to flow. During testing and inspection procedures, the well shall not be left unattended while open to production unless a properly operating subsurface-safety device has been installed in the well.

3. The well shall not be open to flow while the SSSV is removed, except when flowing of the well is necessary for a particular operation such as cutting paraffin, bailing sand, or similar operations.

4. All SSSV's must be inspected, installed, used, maintained, and tested in accordance with American Petroleum Institute Recommended Practice 14B, Recommended Practice for Design, Installation, Repair, and Operation of Subsurface Safety Valve Systems.

C. Temporary removal for routine operations.

1. Each wireline or pumpdown-retrievable SSSV may be removed, without further authorization or notice, for a routine operation which does not require the approval of Form DM-4R,

2. The well shall be identified by a sign on the wellhead stating that the SSSV has been removed. If the master valve is open, a trained person shall be in the immediate vicinity of the well to attend the well so that emergency actions may be taken, if necessary.

3. A platform well shall be monitored, but a person need not remain in the well-bay area continuously if the master valve is closed. If the well is on a satellite structure, it must be attended or a pump-through plug installed in the tubing at least 100 feet below the mud line and the master valve closed, unless otherwise approved by the district manager.

4. Each operator shall maintain records indicating the date a SSSV is removed, the reason for its removal, and the date it is reinstalled

D. Emergency Action. In the event of an emergency, such as an impending storm, any well not equipped with a subsurface safety device and which is capable of natural flow shall have the device properly installed as soon as possible with due consideration being given to personnel safety.

E. Design and Operation

1. All SSSVs must be inspected, installed, maintained, and tested in accordance with API RP 14B, Recommended Practice for Design, Installation, Repair, and Operation of Subsurface Safety Valve Systems.

2. Testing requirements. Each SSSV installed in a well shall be removed, inspected, and repaired or adjusted, as necessary, and reinstalled or replaced at intervals not exceeding 6 months for those valves not installed in a landing nipple and 12 months for those valves installed in a landing nipple.

3. Records must be retained for a period of 2 years for each safety device installed.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:

**§1105. Waivers**

A. Onshore Wells. Where the use of storm chokes would unduly interfere with normal operation of a well, the District Manager may, upon submission of pertinent data, in writing, waive the requirements of this order.

B. Offshore Wells

1. The district manager, upon submission of pertinent data, in writing explaining the efforts made to overcome the particular difficulties encountered, may waive the use of a subsurface safety valve under the following circumstances, and may, in his discretion, require in lieu thereof a surface safety valve:

a. where sand is produced to such an extent or in such a manner as to tend to plug the tubing or make inoperative the subsurface safety valve;

b. when the flowing pressure of the well is in excess of 100 psi but is inadequate to activate the subsurface safety valve;

c. where flow rate fluctuations or water production difficulties are so severe that the subsurface safety valve would prevent the well from producing at its allowable rate;

d. where mechanical well conditions do not permit the installation of a subsurface safety valve;

e. in such other cases as the district manager may deem necessary to grant an exception.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1961, amended March 15, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:1128 (October 1994), LR 36:

James H. Welsh  
Commissioner

1007#094

**DECLARATION OF EMERGENCY**

**Department of Public Safety and Corrections  
Corrections Services**

Disciplinary Rules and Procedures for Adult Offenders  
(LAC 22:I.341-363)

In accordance with the provisions of R.S. 49:953, the Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an Emergency Rule for implementation of the amendment of existing Rule 30(k) of the Disciplinary Rules and Procedures for Adult Offenders, August 2008 is necessary and that for the following reasons failure to adopt the Rule on an emergency basis will result in a breach of the Settlement Agreement reached with Ernst Billizone.

The American Civil Liberties Union representing Ernest Billizone in *Billizone v. LeBlanc*, Civil Action No. 09-438 (U.S.D.C. W.D.La.) urged that Rule 30(k) was an unconstitutional infringement on his 1st Amendment right to speech. Without admitting any liability, both parties agreed that clarification on the application of this rule was warranted. Among other consideration, the department and Billizone settled this suit with the agreement that the department would amend Rule 30(k), promulgate same, and provide training on the application of this amended rule violation. Failure to promulgate the amended rule and take the steps required once the promulgation occurs could result in a breach of the Settlement Agreement. The federal district court has ordered that all steps required in the Settlement Agreement be completed by June 26, 2010.

For the foregoing reasons, the Department of Public Safety and Corrections, Corrections Services, has determined that the adoption of an Emergency Rule for the amendment of Rule 30(k) of the Disciplinary Rules and Procedures for Adult Offenders, August, 2008 and hereby provides notice of its declaration of emergency effective on June 25, 2010, in accordance with R.S. 49:953. This Emergency Rule shall be in effect for 120 days or until adoption of the final Rule, whichever occurs first.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part I. Corrections**

**Chapter 3. Adult Services**

**Subchapter B. Disciplinary Rules and Procedures for  
Adult Offenders**

**§363. Disciplinary Rules**

A. - X.10. ...

11. the communication of statements or information known to be malicious, frivolous, false, and/or inflammatory, the purpose of which is reasonably intended to harm, embarrass, or intimidate an employee, visitor, guest, offender or their families; (This rule shall not apply to information and/or statements communicated for the express purpose of obtaining legal assistance.)

12. - 23. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995). Cassels v. Stalder, 342 F. Supp. 2d 555.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:419 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 31:1099 (May 2005), LR 34:2201 (October 2008), LR 36:

James M. Le Blanc  
Secretary

1007#008

## DECLARATION OF EMERGENCY

### Department of Public Safety and Corrections Office of State Police

Collection, Submission, Receipt, Identification,  
Storage and Disposal of DNA Samples  
(LAC 55:1.Chapter 27)

The Louisiana Department of Public Safety and Corrections, Louisiana State Police hereby adopts the following Emergency Rule governing the implementation of Act 9 of the 2009 Regular Session, R.S. 15:609(B)(1) and (C) and 610. These Rules are being adopted in accordance with Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act. These Emergency Rules become effective on the date of the signature by the authorized representative of the Louisiana Department of Public Safety and Corrections, Office of State Police and shall remain in effect for the maximum period allowed by the APA, which is 120 days.

The Louisiana State Police Crime Lab is currently running out of the DNA Database Blood Collection Kits. As a result, the Louisiana State Police Crime Lab will expand, through these rule changes, the collection of DNA to also include the use of DNA Database Buccal Collection Kits for drawing blood on arrestees and convicted offenders. The use of buccal swabs for the collection of DNA is safer because there is less exposure to blood, easier for the lab to process, and less costly than the DNA Database Blood Collection Kits. Immediate adoption of these emergency rules will greatly facilitate the collection of DNA samples as well as increase the safety to the lab technicians that are collecting the DNA samples.

#### Title 55

#### PUBLIC SAFETY

#### Chapter 27. Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples

#### Subchapter A. Collection of DNA Samples

#### §2702. Definitions

*AFIS*—the Automated Fingerprint Identification System operated by the Department of Public Safety and Corrections, Public Safety Services.

*CAJUN*—the Corrections and Justice Unified Network operated by the Department of Public Safety and Corrections.

*CODIS or Combined DNA Index System*—the Federal Bureau of Investigation's national DNA identification index system which facilitates the storage and exchange of DNA records submitted by state and local criminal justice and law enforcement agencies.

*Crime Laboratory*—Louisiana State Police Crime Laboratory of the Department of Public Safety and Corrections, Public Safety Services.

*Convicted Offender*—a person convicted of a felony sex offense, other specified offense or any other offense for which a DNA sample must be obtained pursuant to R.S. 15:601 et seq.

*Department*—Department of Public Safety and Corrections, Public Safety Services.

*Director*—the Director of the Louisiana State Police Crime Laboratory.

*DNA*—deoxyribonucleic acid.

*DNA Analysis*—DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

*DNA Database*—the DNA identification record system maintained and administered by the director.

*DNA Database Blood Collection Kit*—the kit approved by the department for the collection of DNA blood samples.

*DNA Database Buccal Collection Kit*—the kit approved by the department for the collection of DNA saliva samples.

*DNA Database Information Card (DDIC)*—the information card which provides identifying information of the offender when a non-livescan collection is performed.

*DNA Record*—DNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

*DNA Sample*—biological evidence of any nature that is utilized to conduct DNA analysis.

*DPS&C*—Department of Public Safety and Corrections.

*FBI*—Federal Bureau of Investigation within the United States Department of Justice.

*FTA*—specialized paper that binds DNA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:205 (February 2001), repromulgated LR 27:1701 (October 2001), LR 36:

#### §2703. Collection, Submission, and Identification of DNA Samples for Convicted Offenders

A. All DNA samples obtained for DNA Analysis from a convicted offender shall be collected using an approved Louisiana State Police Crime Laboratory DNA Database Collection kit. Procedures are specific to the type of sample being collected. A different kit is used for blood collection and buccal collection.

1. Each DNA Database Collection Kit shall contain all necessary materials for collection and for proper identification of the offender.

2. Each kit shall be numbered sequentially from one kit to the next so that each number shall serve as a unique identifier. Kit components shall have the same number.

3. All DNA samples shall be collected by individuals trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory.

4. The collector shall complete the DDIC (for non-livescan collections), which contains the identifying information of the collected offender when obtaining a

sample. All information shall be provided. Printed name, date and signature of the person collecting the sample is required. A fingerprint is obtained as positive identification of the offender. Samples submitted with incomplete information may require recollection.

5. Finger stick blood samples shall be obtained using recognized and approved medical procedures, and the following guidelines shall be followed.

a. Prior to each individual blood collection procedure, personnel performing the collection shall put on barrier gloves. The FTA Blood Collection Paper contained within the kit shall not be touched unless the individual collecting the offender's blood is wearing barrier gloves.

b. The tip of the offender's finger shall be wiped with an absorbent alcohol pad.

c. The offender's finger shall be pricked using a sterile, fixed depth lancet.

d. The offender's finger shall be positioned over one of the four circles printed on the FTA Blood Collection Paper, allowing two drops of blood to fall onto the FTA paper, within the circle. If the blood is not flowing, the finger may be squeezed and then released to facilitate blood flow adequate to yield two drops of blood in each circle. Repeat to collect sample in all circles.

e. A sterile gauze pad shall be used to wipe off any remaining blood from the offender's finger, and an adhesive bandage shall be affixed to the offender's finger.

f. All medical supplies (lancet, absorbent alcohol pad, gauze pad, barrier gloves) shall be discarded in compliance with standard medical procedures.

g. The FTA Blood Collection Paper shall not be touched, nor shall it be allowed to come in contact with any other FTA Blood Collection Paper during the drying and packaging stages.

h. The FTA Blood Collection Paper shall be placed in the plastic specimen bag, along with the dessicant. The sealed plastic specimen bag shall be stapled to the DDIC, which shall then be placed in the white mailing envelope. The mailing envelope flap shall be sealed and an evidence or security label shall then be placed across the envelope flap. The label shall be dated and initialed.

i. In the event a convicted offender resists the taking of the DNA sample and the collector may use reasonable force in accordance with R.S. 15:601-620, the collector may collect any type of biological sample approved by the Louisiana State Police Crime Laboratory. The following types of biological sample collections are hereby approved for these instances:

- i. blood stain from finger prick on FTA card;
- ii. buccal swab;
- iii. phlebotomy draw.

6. Buccal (saliva) samples shall be obtained using an approved buccal collection kit, in accordance with the guidelines detailed in Subchapter B: 2722.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:206

(February 2001), repromulgated LR 27:1702 (October 2001), amended LR 30:271 (February 2004), LR 36:

#### **§2704. Shipping of DNA Samples for Convicted Offenders**

A. DNA samples collected in accordance with these procedures shall be submitted to the crime laboratory in person by approved personnel or via delivery service, such as U.S. mail in accordance with the Crime Laboratory's policies and procedures. The mailing envelope shall be mailed or delivered to the crime laboratory after collection to the following address.

Louisiana State Police Crime Laboratory  
376 East Airport Drive  
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1702 (October 2001), LR 36:

#### **§2705. Record Keeping of DNA Samples for Convicted Offenders**

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect blood from an offender and the reason for the failure (e.g., refusal of offender to submit, failure to keep scheduled appointment) shall also be indicated. The list will include the following information: the kit number, the offender's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be mailed to the CODIS DNA Unit to the following address.

Louisiana State Police Crime Laboratory  
376 East Airport Drive  
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1703 (October 2001), amended LR 30:271 (February 2004), LR 36:

#### **§2706. Storage of DNA Samples for Convicted Offenders**

A. The sealed kits containing DNA samples shall be stored in a dedicated storage area within the crime laboratory. Access to the sealed kits and to the storage area shall be limited to authorized personnel. Any access to or removal/return of the sealed kit or specimen bags shall be performed in accordance with crime lab policies and procedures. Only authorized personnel shall open a sealed kit or specimen bag.

B. DNA samples on FTA Blood Collection Paper, DNA buccal samples, and DDIC cards shall be stored indefinitely in a secure storage area unless otherwise required in accordance with R.S. 15:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1703 (October 2001), LR 36:

## Subchapter B. Arrestees

### §2721. Definitions

*AFIS*—the Automated Fingerprint Identification System operated by the Department of Public Safety and Corrections, Public Safety Services.

*Arrestee*—a person arrested for a felony sex offense, other specified offense or any other offense for which a DNA sample must be obtained pursuant to R.S. 15:601 et seq.

*Biological Sample*—biological evidence of any nature that is utilized to conduct DNA analysis.

*Crime Laboratory*—Louisiana State Police Crime Laboratory of the Department of Public Safety and Corrections, Public Safety Services.

*Department*—Department of Public Safety and Corrections, Public Safety Services.

*Director*—the director of the Louisiana State Police Crime Laboratory.

*DNA*—deoxyribonucleic acid.

*DNA Analysis*—DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

*DNA Arrestee Database Collection Kit or Kit*—the kit provided by the department for the collection of DNA samples.

*DNA Database*—the DNA identification record system maintained and administered by the director.

*DNA Record*—DNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

*DPS&C*—Department of Public Safety and Corrections.

*FBI*—Federal Bureau of Investigation within the United States Department of Justice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2369 (November 2002), LR 36:

### §2722. Collection, Submission, and Identification of DNA Samples for Arrestees

A. All biological samples obtained for DNA analysis from an arrestee shall be collected using an approved Louisiana State Police Crime Laboratory DNA Arrestee Collection kit.

1. An arrestee collection kit shall contain materials for collection of a biological sample for use in DNA analysis.

2. Each kit shall be numbered sequentially from one kit to the next so that each kit number shall serve as a unique identifier. Kit components shall have the same number.

3. All biological samples shall be collected by individuals trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory.

4. The collector shall utilize an AFIS Printout (livescan generated), which contains the identifying information of the arrestee when obtaining a sample.

a. In the event that a manual collection form is used, all information shall be provided. Printed name, date and signature of the person collecting the sample is required. A fingerprint is obtained as positive identification of the offender. Samples submitted with incomplete information may require recollection.

b. Buccal biological samples shall be obtained according to the instructions contained in the kit.

c. The transport pouch, containing the buccal collection device, and the AFIS printout shall be placed in the mailing envelope provided. The mailing envelope flap shall be sealed.

d. In the event an arrestee resists the taking of the DNA sample, the collector may use reasonable force in accordance with R.S. 15:601-620.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2369 (November 2002), LR 36:

### §2724. Shipping of DNA Samples for Arrestees

A. DNA samples collected in accordance with these procedures shall be submitted to the crime laboratory in person by approved personnel or via delivery service, such as U.S. Mail in accordance with the Crime Laboratory's policies and procedures. The mailing envelope shall be mailed or delivered to the crime laboratory after collection to the following address.

Louisiana State Police Crime Laboratory  
376 East Airport Drive  
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2370 (November 2002), LR 36:

### §2725. Record Keeping of DNA Samples for Arrestees

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect a sample from an arrestee and the reason for the failure (e.g., refusal of arrestee to submit) shall also be indicated. The list will include the following information: the kit number, the arrestee's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be mailed to the CODIS DNA Unit to the following address.

Louisiana State Police Crime Laboratory  
376 East Airport Drive  
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:2370 (November 2002), amended LR 30:271 (February 2004), LR 36:

### §2726. Storage of DNA Samples for Arrestees

A. The sealed kits containing DNA samples shall be stored in a dedicated storage area designated by the crime laboratory. Access to the sealed kits and to the storage area shall be limited to authorized personnel. Any access to or removal/return of the sealed kit shall be performed in accordance with crime lab policies and procedures. Only authorized personnel shall open a sealed specimen envelope, and if applicable shall initial and date the broken seal and shall reseal the specimen envelope in accordance with standard operating procedures.

B. DNA samples from arrestees and AFIS printouts shall be stored for the time period as prescribed by Louisiana law

in a secure storage area unless otherwise required in accordance with R.S. 15:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2370 (November 2002), LR 36:

### **Subchapter C. Peace Officers**

#### **§2742. Collection of DNA Samples for Peace Officers**

A. All biological samples obtained for DNA Analysis from a peace officer shall be buccal swabs and shall be collected using sterile cotton tip swabs as provided by the agency employing the peace officer who is required to have his biological sample collected pursuant to R.S. 40:2405.4.

1. The agency employing the peace officer shall provide all materials necessary to collect a biological sample from any peace officer required to provide a sample pursuant to R.S. 40:2405.4.

2. The supplies necessary to collect a buccal swab shall include the following:

- a. one pack of two sterile cotton tip swabs;
- b. one pair of gloves;
- c. one paper type envelope to store the samples once collected;
- d. evidence tape for sealing the paper envelope.

3. In order to collect the biological sample, the collector shall adhere to the following procedures.

a. The collector shall print the name of the peace officer, the date of collection and the name of the collector on the paper type envelope used to store the samples prior to collection of the specimen.

b. Have the subject open his or her mouth. If there is foreign matter in the mouth, such as tobacco or gum, have the subject rinse his or her mouth out with water.

c. Remove one sterile cotton swab and collect the specimen by rubbing the swab vigorously on the inside surfaces of the cheeks and gums thoroughly. While slowly turning the swab (so that all sides of the swab are in contact with the side of the cheek) rub the swab up and down and back and forth in the mouth about 10 times.

d. Place the buccal swab in the paper type envelope. Do not place the swab back into the original sterile swab packaging.

e. Repeat Subparagraph c with the remaining swab.

f. Place the second cotton tip swab immediately inside the paper type envelope with the first swab.

g. Seal the paper type envelope. Write the date and collector's initials partially on the paper type envelope and partially on the envelope flap.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:271 (February 2004), LR 36:

Michael D. Edmonson  
Colonel

1007#003

## **DECLARATION OF EMERGENCY**

### **Department of Social Services Office of Community Services**

Legal Representation in Child Protection Cases Policies and Procedures (LAC 67:V.Chapters 57 and 59)

The Department of Social Services, Office of Community Services, has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) to repeal the LAC 67:V.Chapter 57, Billing Policies and Fee Review Procedures, and promulgate LAC 67:V.Chapter 59, relative to the provision of Legal Representation Services in Child Protection cases.

This Emergency Rule is effective July 1, 2010, and will remain in effect for 120 days or until the publication of the final Rule, whichever occurs first. These changes are necessitated by full implementation of the new statewide system of legal representation for children and indigent parents in child protection cases consistent with the expedited implementation plan unanimously approved by the Task Force on Legal Representation in Child Protection Cases. This emergency rule is necessary because the agency does not have sufficient time to complete the rulemaking process prior to the effective date.

As of July 1, 2010, state funding for legal representation in child protection cases is confined to the new system. The Mental Health Advocacy Service/Child Advocacy Program (MHAS/CAP) will receive state funds to represent children in child protection proceedings in the following jurisdictions: 1st JDC, 14th JDC, 16th JDC, 19th JDC, 21st JDC, 22nd JDC (except Slidell City Court), 25th JDC, 38th JDC and Orleans Parish Juvenile Court. The Supreme Court will receive state funds for administration by the Louisiana Bar Foundation to Legal Services of North Louisiana, Acadiana Legal Services, Capital Area Legal Services, and Southeast Louisiana Legal Services for representation of children in child protection proceedings in jurisdictions not served by MHAS/CAP. The Louisiana Public Defender Board will receive state funds to provide for representation of indigent parents through local defender offices statewide and will retain all children's cases to which they were formerly appointed. The state funds will be used only to pay for attorneys hired or contracted by MHAS/CAP, LPDB, or the Legal Services Corporations, not for ad hoc attorney representation.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part V. Office of Community Services**

#### **Subpart 7. Payment of Legal Fees in Child Protection Cases**

#### **Chapter 57. Billing Policies and Fee Review Procedures**

#### **§5701. Purpose**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:112 (January 2006), repealed LR 36:

**§5703. Billing policies**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:112 (January 2006), repealed LR 36:

**§5705. Fee review procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:112 (January 2006), repealed LR 36:

**Chapter 59. Legal Representation of Children and Indigent Parents Pursuant to R.S. 46:460.21**

**§5901. Implementation of New Statewide System of Legal Representation of Children and Indigent Parents**

A. Full implementation of the new statewide system of legal representation of children and indigent parents in child protection cases is effective July 1, 2010.

B. Pursuant to implementation of the new statewide system consistent with the expedited implementation plan unanimously approved by the Task Force on Legal Representation in Child Protection Cases, the department will not pay for *ad hoc* legal representation of children or indigent parents for services provided after June 30, 2010 or services in new cases during the January 1-June 30, 2010 transition period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:

**§5903. DSS Final Payment to *ad hoc* Attorneys Appointed Prior to January 1, 2010.**

A. Subject to available funds pursuant to R.S. 46:460.21, the department will pay properly documented and authorized requests for payment of services of *ad hoc* attorneys who were appointed to represent children and/or indigent parents prior to January 1, 2010 and delivered services through June 30, 2010. The department will not pay for legal representation services delivered to children or indigent parents for *ad hoc* appointment made in new cases on or after January 1, 2010. Attorneys shall follow the former billing procedures when submitting requests for payment. To be considered for payment, attorneys must submit properly documented and authorized requests for payment to the department by July 16, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:

Kristy H. Nichols  
Secretary

1007#012

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Recreational and Commercial Fisheries Closure**

In accordance with the emergency provisions of R.S. 49:953.B and R.S.49:967.D of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Wildlife and Fisheries Commission hereby closes all recreational and commercial fishing, effective immediately July 8, 2010, in the following area:

That portion of state outside waters seaward of the inside/outside shrimp line from the Mississippi/Louisiana state line westward to the eastern shore of Oyster Bayou at 91 degrees 07 minutes 48 seconds west longitude, and that portion of saltwater areas of the state east of the Mississippi River north of the southern shore of the Mississippi River Gulf Outlet and the southern shore of Lake Pontchartrain from the double rig line as described in R.S. 56:495.1 westward to 89 degrees 51 minutes 35 seconds west longitude and the US Hwy 11 bridge in Lake Pontchartrain, and that portion of state inside waters east of the Mississippi River south of the southern shore of the Mississippi River Gulf Outlet and north of 29 degrees 38 minutes 12 seconds north latitude from the double rig line as described in R.S. 56:495.1 westward to 89 degrees 42 minutes 32 seconds west longitude near the western shore of the twin pipeline canals , and that portion of state inside waters from 89 degrees 28 minutes 06 seconds west longitude near Sable island eastward to the eastern shore of South Pass of the Mississippi River, and that portion of Breton and Chandeleur Sound as described by the double rig line in R.S.56:495.1, and that portion of state inside waters west of the eastern shore of South Pass of the Mississippi River westward to the southern shoreline of Red Pass at 89 degrees 28 minutes 13.4 seconds west longitude, and that portion of state inside waters south of 29 degrees 30 minutes 00 seconds north latitude from the western shoreline of Grand Bayou westward to 89 degrees 52 minutes 00 seconds west longitude, and that portion of state inside waters south of 29 degrees 35 minutes 00 seconds north latitude from 89 degrees 52 minutes 00 seconds west longitude westward to the eastern shoreline of the Barataria Waterway, and that portion of state inside waters south of 29 degrees 18 minutes 30 seconds north latitude from the eastern shoreline of the Barataria Waterway westward to 90 degrees 00 minutes 00 seconds west longitude, and that portion of state inside waters south of 29 degrees 16 minutes 00 seconds north latitude from 90 degrees 00 minutes 00 seconds west longitude westward to the eastern shore of Bayou Lafourche, and that portion of state inside waters south of 29 degrees 12 minutes 50 seconds north latitude from the eastern shore of Bayou Lafourche westward to 90 degrees 17 minutes 50 seconds west longitude, and that portion of state inside waters south of 29 degrees 21 minutes 42 seconds north latitude from the western shore of Grand Bayou Blue and 90 degrees 17 minutes 50 seconds west longitude westward to the eastern shore of Bayou Terrebonne, and that portion of

state inside waters south of 29 degrees 21 minutes 00 seconds north latitude from the eastern shore of Bayou Terrebonne westward to the western shore of Bayou Petit Caillou, and that portion of state inside waters south of 29 degrees 13 minutes 12 seconds from the western shore of Bayou Petit Caillou and the Houma Navigation Canal red buoy line westward to 91 degrees 07 minutes 48 seconds west longitude.

Effective with the closure, no person shall take or possess or attempt to take any species of fish from waters within the closed area. The possession, sale, barter, trade, or exchange of any fish or other aquatic life from the closed area during the closure is prohibited.

The Commission hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of Louisiana's coastal waters. Efforts have been made and are continuing to minimize the potential threats to fish and other aquatic life.

This action is taken in coordination with Louisiana Department of Health and Hospitals, to avoid the possibility that commercially harvested and recreationally caught fish and other aquatic life used for consumption are tainted with hydrocarbons. Governor Jindal in a declaration of emergency issued on April 29, 2010 stated in part that "a declaration that a state of emergency exists is appropriate due to the predicted impact of oil along the Louisiana coast leaking from the Deepwater Horizon which threatens the state's natural resources, including land, water, fish, wildlife, fowl and other birds, and likewise threatens the livelihoods of Louisiana's citizens living along the coast which increases the economic impact of this incident".

Stephen J. Oats  
Chairman

1007#063

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

Recreational and Commercial Fisheries Closure  
Portions of Plaquemines and St. Bernard Parishes

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on June 3, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if

biological and technical data indicate the need to do so, the secretary hereby closes to all recreational and commercial fishing that portion of state inside waters east of the Mississippi River north of the eastern shore of Main Pass and south of the Mississippi River Gulf Outlet from the double rig line as described in R.S. 56:495.1 westward to the eastern shore of the Mississippi River and north along 89 degrees 42 minutes 32 seconds west longitude near the western shore of the twin pipeline canals effective July 5, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The secretary has determined that these portions of state inside waters shall close to recreational and commercial fishing effective July 5, 2010. These precautionary fishing closures are due to new reports of oil, strong easterly winds and higher than normal tides.

Robert J. Barham  
Secretary

1007#031

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

Recreational and Commercial Fisheries Closure  
Portions of Plaquemines, St. Bernard, Orleans,  
and St. Tammany Parishes

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on June 3, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby closes to all recreational and commercial fishing that portion of saltwater areas of the state east of the Mississippi River north of the southern shoreline of the Mississippi River Gulf Outlet and the southern shoreline of Lake Pontchartrain from the double rig line as described in R.S. 56:495.1 westward to 89 degrees 51 minutes 35 seconds west longitude and the US Highway 11 bridge in Lake Pontchartrain, and that portion of state inside waters east of the Mississippi River north of 29 degrees 30 minutes 00 seconds north latitude and south of the southern shoreline of the Mississippi River Gulf Outlet from the double rig line westward to 89 degrees 41 minutes 00 seconds west longitude effective July 5, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The secretary has determined that these portions of state inside waters shall close to recreational and commercial fishing effective July 5, 2010. These precautionary fishing closures are due to new reports of oil, strong easterly winds and higher than normal tides.

Robert J. Barham  
Secretary

1007#032

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Recreational and Commercial Fisheries Closure Portions of State Inside and Outside Waters**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on June 3, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby closes to all recreational and commercial fishing that portion of state inside waters south of 29 degrees 13 minutes 12 seconds north latitude from the Houma Navigation Canal red buoy line westward to the eastern shore of Oyster Bayou, and that portion of state outside waters seaward of the inside/outside shrimp line from 90 degrees 46 minutes 01 seconds west longitude westward to 91 degrees 07 minutes 48 seconds west longitude near the eastern shore of Oyster Bayou, and that portion of state inside waters south of 29 degrees 16 minutes 00 seconds north latitude from 90 degrees 07 minutes 00 seconds west longitude westward to the eastern shore of Bayou Lafourche, and the open waters of Breton and Chandeleur Sounds as described by the double-rig line in R.S. 56:495.1, and all state outside waters seaward of the inside/outside shrimp line east of the Mississippi River effective July 1, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The secretary has determined that this portion of state inside and outside state waters shall close to recreational and commercial fishing effective July 1, 2010. These precautionary fishing closures are due to strong east to southeast winds and higher than normal tides

influenced by Hurricane Alex and the proximity of oil in portions of inshore and offshore state waters.

Robert J. Barham  
Secretary

1007#027

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Recreational and Commercial Fisheries Closure St. Bernard Parish**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on June 3, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby closes to all recreational and commercial fishing that portion of state waters in St. Bernard Parish north of 29 degrees 47 minutes 00 seconds north latitude from the double-rig line in Breton and Chandeleur Sounds as described in R.S. 56:495.1 westward to 89 degrees 25 minutes 00 seconds west longitude effective July 2, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The secretary has determined that this portion of state inside waters shall close to recreational and commercial fishing effective July 2, 2010. This precautionary fishing closure is due to strong east to southeast winds and higher than normal tides influenced by Hurricane Alex and the proximity of oil in portions of inshore and offshore state waters.

Robert J. Barham  
Secretary

1007#033

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Recreational and Commercial Fisheries Opening East of Mississippi River, St. Bernard Parish**

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967.D of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S.

56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a declaration of emergency adopted by the Wildlife and Fisheries Commission on June 3, 2010 which grants authority to the Secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the Secretary hereby opens to all recreational and commercial fishing that portion of Breton and Chandeleur Sounds as described by the double rig line in R.S. 56:495.1 and state outside waters seaward of the inside/outside shrimp line north of 29 degrees 37 minutes 54 seconds north latitude effective immediately June 15, 2010 with the exception of those inside and outside state waters bounded on the north by 30 degrees 01 minutes 00 seconds north latitude and on the south by 29 degrees 43 minutes 58 seconds north latitude from the Louisiana territorial sea boundary westward to 88 degrees 55 minutes 14.6 seconds west longitude, and that portion of inside waters extending north of Martin Island at 29 degrees 57 minutes 29.6 seconds north latitude and south of Isle au Pitre at 30 degrees 09 minutes 20.5 seconds north latitude from 89 degrees 7 minutes 00 seconds west longitude westward to 89 degrees 15 minutes 30 seconds west longitude which shall remain closed to recreational and commercial fishing.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The Secretary has determined that this portion of state inside and outside state waters shall open to recreational and commercial fishing effective immediately June 15, 2010. The most recent information from shoreline cleanup assessment teams indicates no oil in these areas.

Robert J. Barham  
Secretary

1007#004

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries**

#### **Recreational and Commercial Fisheries Opening—Inside and Outside Waters East of the Mississippi River**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on June 3, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby opens to all recreational and commercial fishing that portion of the open waters of Breton and

Chandeleur Sounds as described by the double-rig line in R.S. 56:495.1 south of 29 degrees 37 minutes 54 seconds north latitude near Curlew Island, and that portion of state outside waters east of the Mississippi River seaward of the inside/outside shrimp line as described in R.S. 56:495 south of 29 degrees 37 minutes 54 seconds north latitude near Curlew Island and north of 29 degrees 21 minutes 32.7 seconds north latitude near Baptiste Collette Bayou effective immediately today, June 9, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The secretary has determined that these portions of state inside and outside waters shall open to recreational and commercial fishing immediately June 9, 2010. Recent Shoreline Cleanup Assessment Team maps do not indicate the presence of oil in these areas.

Robert J. Barham  
Secretary

1007#001

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Recreational and Commercial Fisheries Opening—Inside Waters South of Cocodrie**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on June 3, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby opens to all recreational and commercial fishing that portion of state inside waters north of 29 degrees 8 minutes 19 seconds north latitude from 90 degrees 39 minutes 26.8 seconds west longitude north to the eastern shore of the Houma Navigation Canal westward to the eastern shore of Bayou Grand Caillou at its intersection with 90 degrees 49 minutes 00 seconds west longitude and southward along 90 degrees 49 minutes 00 seconds west longitude effective one-half hour before sunrise, June 12, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The secretary has determined that this portion of state inside waters shall open to

recreational and commercial fishing effective one-half hour before sunrise June 12, 2010. The Department of Health and Hospitals has announced re-opening these waters to the harvest of oysters.

Robert J. Barham  
Secretary

1007#010

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Opening—Inside  
Waters, Territorial Seas East of Mississippi River,  
Plaquemines Parish

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on June 3, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby opens to all recreational and commercial fishing that portion of state inside waters north of the inside/outside shrimp line west of the Mississippi River from the southern shore of Red Pass at 89 degrees 28 minutes 13.4 seconds west longitude westward to 89 degrees 30 minutes 12 seconds west longitude near Sandy Point, and that portion of state inside waters inshore of the inside/outside shrimp line located south and east of the eastern shore of Baptiste Collette Bayou eastward to the eastern shore of Main Pass, and that portion of state outside waters seaward of the inside/outside shrimp line east of the Mississippi River west of 89 degrees 11 minutes 21 seconds west longitude and south of 29 degrees 21 minutes 32.7 seconds north latitude effective immediately today, June 14, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The secretary has determined that these portions of state inside and outside waters shall open to recreational and commercial fishing immediately June 14, 2010. Recent Shoreline Cleanup Assessment Team maps do not indicate the presence of oil in these areas.

Robert J. Barham  
Secretary

1007#009

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Opening  
Portions of Lafourche and Terrebonne Parishes

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967.D of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a declaration of emergency adopted by the Wildlife and Fisheries Commission on June 3, 2010 which grants authority to the Secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the Secretary hereby opens to all recreational and commercial fishing that portion of state inside waters north of 29 degrees 21 minutes 42 seconds north latitude and south of 29 degrees 30 minutes 00 seconds north latitude from the western shore of Bayou Lafourche westward to the eastern shore of Bayou Terrebonne, and that portion of state inside waters north of 29 degrees 08 minutes 19 seconds north latitude from the Houma Navigation Canal red buoy line westward to 90 degrees 39 minutes 26.8 seconds west longitude, and that portion of state inside waters north of 29 degrees 05 minutes 00 seconds north latitude and south of 29 degrees 08 minutes 19 seconds north latitude from the Houma Navigation Canal red buoy line westward to 90 degrees 49 minutes 00 seconds west longitude with the exception of that portion of inside waters near Bay Blanc north of 29 degrees 07 minutes 19 seconds north latitude and south of 29 degrees 09 minutes 04 seconds north latitude from 90 degrees 42 minutes 46 seconds west longitude westward to 90 degrees 44 minutes 47 seconds west longitude which will remain closed to recreational and commercial fishing, and opens that portion of state inside and outside waters south of 29 degrees 05 minutes 00 seconds north latitude from 90 degrees 46 minutes 01 seconds west longitude westward to 90 degrees 49 minutes 00 seconds west longitude effective immediately June 17, 2010

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The Secretary has determined that this portion of state inside and outside state waters shall open to recreational and commercial fishing effective immediately June 17, 2010. The most recent information from shoreline cleanup assessment team maps indicates no oil in these areas.

Robert J. Barham  
Secretary

1007#005

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Opening—Portions  
of Terrebonne, Lafourche, Jefferson and Plaquemines  
Parishes and Closes in St. Bernard Parish

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on June 3, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby opens to all recreational and commercial fishing that portion of state inside waters near Bay Blanc north of 29 degrees 07 minutes 19 seconds north latitude and south of 29 degrees 09 minutes 04 seconds north latitude from 90 degrees 42 minutes 46 seconds west longitude westward to 90 degrees 44 minutes 47 seconds west longitude, and that portion of state inside waters north of 29 degrees 12 minutes 50 seconds north latitude near the southern shoreline of Little Lake west of Leeville and south of 29 degrees 21 minutes 42 seconds north latitude from the eastern shoreline of Bayou Lafourche westward to 90 degrees 17 minutes 50 seconds west longitude and the western shoreline of Grand Bayou Blue, and that portion of state inside waters north of 29 degrees 18 minutes 30 seconds north latitude near Bay Des Ilettes and south of 29 degrees 35 minutes 00 seconds north latitude from the eastern shoreline of the Barataria Waterway westward to 90 degrees 07 minutes 00 seconds west longitude, and that portion of Caminada Bay and adjacent waters north of 29 degrees 16 minutes 00 seconds north latitude and south of 29 degrees 18 minutes 30 seconds north latitude from 90 degrees 00 minutes 00 seconds west longitude westward to 90 degrees 07 minutes 00 seconds west longitude, and that portion of state inside waters north of the inside/outside shrimp line west of the Mississippi River from 89 degrees 30 minutes 12 seconds west longitude to the western shoreline of Grand Bayou effective June 25, 2010, and closes to all recreational and commercial fishing that portion of state inside and outside waters north of 29 degrees 57 minutes 29.6 seconds north latitude to the Louisiana/Mississippi territorial sea boundary from 89 degrees 15 minutes 30 seconds west longitude eastward to the Louisiana territorial sea boundary effective June 25, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The most recent information from shoreline cleanup assessment team maps indicates no oil in the areas to be opened; however, confirmed reports of

oil within the area to be closed in St. Bernard Parish have been received.

Robert J. Barham  
Secretary

1007#013

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Opening—State  
Inside Waters in Portions of Bayou Lafourche and Other  
Lafourche Parish Inside Waters

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on June 3, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby opens to all recreational and commercial fishing that portion of state inside waters north of 29 degrees 09 minutes 29 seconds north latitude from the eastern shore of Bayou Lafourche to the Fourchon Road (LA Hwy 3090) and north of LA Hwy 1 from 90 degrees 07 minutes 00 seconds west longitude westward to the eastern shore of Bayou Lafourche, and that portion of Bayou Lafourche itself north of the LA Hwy 1 bridge in Leeville effective immediately June 23, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The secretary has determined that this portion of state inside waters shall open to recreational and commercial fishing effective immediately June 23, 2010.

Robert J. Barham  
Secretary

1007#014

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational Catch and Release of Finfish

In accordance with the emergency provisions of R.S. 49:953.B and R.S.49:967.D of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, and a declaration of emergency adopted by the Wildlife and Fisheries

Commission on June 3, 2010 which grants authority to the Secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the Secretary of the Department of Wildlife and Fisheries hereby closes all recreational and commercial fishing, except the recreational catch and release of finfish, effective July 6, 2010, in the following areas:

That portion of state outside waters seaward of the inside/outside shrimp line from the Mississippi/Louisiana state line westward to the eastern shore of Oyster Bayou at 91 degrees 07 minutes 48 seconds west longitude, and that portion of saltwater areas of the state east of the Mississippi River north of the southern shore of the Mississippi River Gulf Outlet and the southern shore of Lake Pontchartrain from the double rig line as described in R.S. 56:495.1 westward to 89 degrees 51 minutes 35 seconds west longitude and the US Hwy 11 bridge in Lake Pontchartrain, and that portion of state inside waters east of the Mississippi River south of the southern shore of the Mississippi River Gulf Outlet and north of the eastern shore of South Pass of the Mississippi River from the double rig line as described in R.S. 56:495.1 westward to the eastern shore of the Mississippi River and north along 89 degrees 42 minutes 32 seconds west longitude near the western shore of the twin pipeline canals, and that portion of Breton and Chandeleur Sound as described by the double rig line in R.S. 56:495.1, and that portion of state inside waters west of the eastern shore of South Pass of the Mississippi River westward to the southern shoreline of Red Pass at 89 degrees 28 minutes 13.4 seconds west longitude, and that portion of state inside waters south of 29 degrees 30 minutes 00 seconds north latitude from the western shoreline of Grand Bayou westward to 89 degrees 52 minutes 00 seconds west longitude, and that portion of state inside waters south of 29 degrees 35 minutes 00 seconds north latitude from 89 degrees 52 minutes 00 seconds west longitude westward to the eastern shoreline of the Barataria Waterway, and that portion of state inside waters south of 29 degrees 18 minutes 30 seconds north latitude from the eastern shoreline of the Barataria Waterway westward to 90 degrees 00 minutes 00 seconds west longitude, and that portion of state inside waters south of 29 degrees 16 minutes 00 seconds north latitude from 90 degrees 00 minutes 00 seconds west longitude westward to the eastern shore of Bayou Lafourche, and that portion of state inside waters south of 29 degrees 12 minutes 50 seconds north latitude from the eastern shore of Bayou Lafourche westward to 90 degrees 17 minutes 50 seconds west longitude, and that portion of state inside waters south of 29 degrees 21 minutes 42 seconds north latitude from the western shore of Grand Bayou Blue and 90 degrees 17 minutes 50 seconds west longitude westward to the eastern shore of Bayou Terrebonne, and that portion of state inside waters south of 29 degrees 21 minutes 00 seconds north latitude from the eastern shore of Bayou Terrebonne westward to the western shore of Bayou Petit Caillou, and that portion of state inside waters south of 29 degrees 13 minutes 12 seconds from the western shore of Bayou Petit Caillou and the Houma Navigation Canal red buoy line westward to 91 degrees 07 minutes 48 seconds west longitude.

No person shall take or attempt to take any species of fish recreationally from the closed area other than finfish, no person shall possess any species of fish taken from within the closed area and no person shall possess any species of fish while fishing in the closed area. The possession, sale, barter, trade, or exchange of any fish or other aquatic life from the closed area during the closure is prohibited.

Effective with the closure, no person shall take or attempt to take any species of fish for commercial purposes from waters within the closed area and no person shall take or attempt to take any species of fish recreationally from the closed area other than finfish, no person shall possess any species of fish taken from within the closed area and no person shall possess any species of fish while fishing in the closed area. The possession, sale, barter, trade, or exchange of any fish or other aquatic life from the closed area during the closure is prohibited.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of Louisiana's coastal waters. Efforts have been made and are continuing to minimize the potential threats to fish and other aquatic life.

This action is taken to provide recreational and charter boat anglers an opportunity to continue to enjoy recreational fishing and to avoid the possibility that recreationally caught finfish taken from areas closed to recreational and commercial fishing are not consumed. Governor Jindal in a declaration of emergency issued on April 29, 2010 stated in part that "a declaration that a state of emergency exists is appropriate due to the predicted impact of oil along the Louisiana coast leaking from the Deepwater Horizon which threatens the state's natural resources, including land, water, fish, wildlife, fowl and other birds, and likewise threatens the livelihoods of Louisiana's citizens living along the coast which increases the economic impact of this incident".

Robert J. Barham  
Secretary

1007#062

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Spring Inshore Shrimp Season Closure in Zone 2**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 6, 2010 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2010 Spring Inshore Shrimp Season in any portion of Louisiana's inside waters to

protect small white shrimp if biological and technical data indicate the need to do so, or if enforcement problems develop, the secretary hereby declares:

The 2010 spring inshore shrimp season in Shrimp Management Zone 2 will close on Monday, July 5, 2010 at 6:00 a.m. Zones 1 and 3 will remain open until further notice except for those areas closed to all recreational and commercial fishing due to the Deepwater Horizon drilling rig accident.

The State Territorial waters seaward of the Inside/Outside Shrimp Line, as described in R.S. 56:495 from 91 degrees 07

minutes 48 seconds west longitude, shall also remain open to shrimping.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within Zone 2 have rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Robert J. Barham  
Secretary

1007#028

# Rules

## RULE

### Department of Children and Family Services Child Welfare Section

#### Residential Licensing—Notice of Revocation Action (LAC 67:V.6503, 6705, 6955 and 7107)

In accordance with provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Children and Family Services, Child Welfare Section, has amended LAC 67:V.6503, 6705, 6955, and 7107.

The Department of Children and Family Services, Child Welfare Section amended this rule to require that any notice of revocation action shall be prominently posted on the premises of any residential care facility when the license to operate is revoked. In an effort to ensure the public health, safety and welfare of children who receive care in transitional living, maternity homes, and child residential care facilities, prominent posting of the notice of revocation action shall remain visible to the general public, other placing agencies, parents, guardians, and other interested parties, throughout the pendency of any appeals of the revocation. This notifies the general public, other placing agencies, parents, guardians, and other interested parties who are involved with child residential care services, that the child residential care facility is not in compliance with state laws.

#### Title 67

#### SOCIAL SERVICES

#### Part V. Community Services

#### Subpart 8. Residential Licensing

#### Chapter 65. Transitional Living

#### §6503. Authority

A. ...

B. Posting of Notices of Revocation

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the transitional living facility within one business day of such action. This notice must remain visible to the general public, other placing agencies, parents, guardians, and other interested parties who are involved with children who attend the child care facility.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's child residential licensing in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:92 (January 2004), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2686 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1561 (August 2009), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1462 (July 2010).

#### Chapter 67. Maternity Home

#### §6705. Application

A. ...

B. Posting of Notices of Revocation.

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the maternity home facility within one business day of such action. This notice must remain visible to the parents, guardians, placing agencies, and other interested parties of children who reside the facility.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's child residential licensing in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended by the Department of Children and Family Services, Child Welfare Section LR 36:1462 (July 2010).

**Chapter 69. Child Residential Care**

**§6955. Procedures**

A. - E.5. ...

F. Posting of Notices of Revocation.

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the child residential care facility within one business day of such action. This notice must remain visible to the general public, other placing agencies, parents, guardians, and other interested parties of children who attend the child care facility.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's child residential licensing in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1410 et seq., R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010).

**Chapter 71. Child Residential Care**

**§7107. Licensing Requirements**

A. - J.6. reserved.

K. Posting of Notices of Revocation.

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the child residential care facility within one

business day of such action. This notice must remain visible to the general public, other placing agencies, parents, guardians, and other interested parties of children who attend the child care facility.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's child residential licensing in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010).

Kristy H. Nichols  
Secretary

1007#045

**RULE**

**Department of Civil Service  
Board of Ethics**

Financial Disclosures (LAC 52:I.1312)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Louisiana Board of Ethics, has amended the Rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and Act 238 of the 2009 Regular Legislative Session.

**Title 52  
ETHICS**

**Part I. Board of Ethics**

**Chapter 13. Records and Reports**

**§1312. Statements Filed Pursuant to Section 1124.6 of  
the Code of Governmental Ethics**

**SCHEDULE L  
CONTRIBUTIONS**

Any filer required to file a La R.S. 42:1124 personal financial disclosure statement and who is directly employed by a statewide elected official to serve as an agency head and who made a contribution in excess of \$1,000 to a campaign of the official who employed the filer shall disclose: 1) the date of employment; 2) his salary; 3) the name of the candidate to whom a contribution or loan in excess of \$1,000 was made; and 4) the amount of any such contribution or loan.

\* Only those contributions or loans made within one (1) year of employment are required to be disclosed.

\* See the instruction page for applicable definitions.

Date of employment: \_\_\_\_\_

Candidate name: \_\_\_\_\_

Salary: \$ \_\_\_\_\_

Amount of contribution or loan: \$ \_\_\_\_\_

Date of employment: \_\_\_\_\_

Candidate name: \_\_\_\_\_

Salary: \$ \_\_\_\_\_

Amount of contribution or loan: \$ \_\_\_\_\_

Date of employment: \_\_\_\_\_

Candidate name: \_\_\_\_\_

Salary: \$ \_\_\_\_\_

Amount of contribution or loan: \$ \_\_\_\_\_

Date of employment: \_\_\_\_\_

Candidate name: \_\_\_\_\_

Salary: \$ \_\_\_\_\_

Amount of contribution or loan: \$ \_\_\_\_\_

Date of employment: \_\_\_\_\_

Candidate name: \_\_\_\_\_

Salary: \$ \_\_\_\_\_

Amount of contribution or loan: \$ \_\_\_\_\_

Date of employment: \_\_\_\_\_

Candidate name: \_\_\_\_\_

Salary: \$ \_\_\_\_\_

Amount of contribution or loan: \$ \_\_\_\_\_

Date of employment: \_\_\_\_\_

Candidate name: \_\_\_\_\_

Salary: \$ \_\_\_\_\_

Amount of contribution or loan: \$ \_\_\_\_\_

**SCHEDULE F  
CONTRIBUTIONS**

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Any filer required to file a La R.S. 42:1124.2.1 personal financial disclosure statement and who is appointed to a state board or commission and who made a contribution in excess of \$1,000 to a campaign of the official who appointed the filer shall disclose: 1) the date of appointment; 2) any compensation provided for such position; 3) the name of the candidate to whom a contribution or loan in excess of \$1,000 was made; and 4) the amount of any such contribution or loan.

\* Only those contributions or loans made within one (1) year of appointment are required to be disclosed.

\* See the instruction page for applicable definitions.

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Date of appointment: \_\_\_\_\_

Candidate name: \_\_\_\_\_

Compensation: \$ \_\_\_\_\_

Amount of contribution or loan: \$ \_\_\_\_\_

Date of appointment: \_\_\_\_\_

Candidate name: \_\_\_\_\_

Compensation: \$ \_\_\_\_\_

Amount of contribution or loan: \$ \_\_\_\_\_

Date of appointment: \_\_\_\_\_

Candidate name: \_\_\_\_\_

Compensation: \$ \_\_\_\_\_

Amount of contribution or loan: \$ \_\_\_\_\_

Date of appointment: \_\_\_\_\_

Candidate name: \_\_\_\_\_

Compensation: \$ \_\_\_\_\_

Amount of contribution or loan: \$ \_\_\_\_\_

Date of appointment: \_\_\_\_\_

Candidate name: \_\_\_\_\_

Compensation: \$ \_\_\_\_\_

Amount of contribution or loan: \$ \_\_\_\_\_

Date of appointment: \_\_\_\_\_

Candidate name: \_\_\_\_\_

Compensation: \$ \_\_\_\_\_

Amount of contribution or loan: \$ \_\_\_\_\_

Date of appointment: \_\_\_\_\_

Candidate name: \_\_\_\_\_

Compensation: \$ \_\_\_\_\_

Amount of contribution or loan: \$ \_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with Act 238 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:1463 (July 2010).

Kathleen M. Allen  
Deputy General Counsel

1007#095

**RULE**  
**Department of Civil Service**  
**Board of Ethics**

Food and Drink Limit (LAC 52:I.1703)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Board of Ethics, has amended the Rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and Section 1115.1(C) of the Code of Governmental Ethics.

**Title 52**  
**ETHICS**

**Part I. Board of Ethics**

**Chapter 17. Code of Governmental Ethics**

**§1703. Food and Drink Limit**

A. In accordance with R.S. 42:1115.1(C), beginning on July 1, 2010, the limit for food, drink or refreshments provided in R.S. 42:1115.1A and B is \$54.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1115.1.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:304 (February 2010), amended LR 36:1466 (July 2010).

Kathleen M. Allen  
Ethics Administrator

1007#096

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 119—Louisiana School Transportation  
Specifications and Procedures  
(LAC 28: CXIII.Chapters 1-31)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 119—Louisiana School Transportation Specifications and Procedures*. The Bulletin 119 will replace existing transportation bulletins (*Bulletin 1191—School Transportation Handbook*; *Bulletin 1213—Minimum Standards for School Buses*; *Bulletin 1475—Operational and Vehicle Maintenance Procedures*; and *Bulletin 1886—Special Education Transportation Handbook*). The adopted Bulletin 119 is a compilation of the policies and laws included in the existing four bulletins in addition to all new policies and laws. Bulletin 119 provides updated policies that align with current state and federal law. The incorporation of all school bus transportation policies into a single document promotes efficiency and ease-of-use by school bus transportation personnel, parents, school staff, and other stakeholders. Bulletins 1191, 1213, 1475, and 1886 will be repealed upon final adoption of *Bulletin 119—School Transportation Specifications and Procedures*.

**Title 28**  
**EDUCATION**

**Part CXIII. Bulletin 119—Louisiana School  
Transportation Specifications and Procedures**

**Chapter 1. Introduction**

**§101. General Authority**

A. This handbook was developed by the Department of Education (DOE) to provide information and direction to local education agencies (LEAs) involved in school transportation in Louisiana.

B. Acting under the authority of the State Board of Elementary and Secondary Education (BESE), the State Superintendent of Education is responsible for carrying out such policies as may be adopted by BESE. The legal responsibilities of the DOE are defined by Louisiana law or policies of BESE.

C. Aside from matters concerned with the financial aspects imposed upon it by law, the primary responsibility of the DOE in student transportation is to provide strong leadership and technical assistance in the development of a comprehensive student transportation program for statewide application.

D. Under the authority of BESE, the DOE shall work with all LEAs to ensure all federal standards and laws regarding the design, purchase, operation, and maintenance of school buses and the school transportation program are enforced. The responsibilities listed below are assumed directly by the DOE within the framework of a total cooperative effort whereby the state and the LEA work together to ensure a safe, efficient, and economical transportation system:

1. develop and implement clear and concise student transportation policies;
2. develop and implement a statewide system for the management of student transportation;
3. develop and implement educational programs and materials for school bus drivers, transportation supervisors, school administrators, and school bus passengers;
4. coordinate services with other divisions of State Government to ensure adherence to all federal and state regulations;
5. mandate established chassis, body and equipment standards mandated in the Federal Motor Vehicle Safety Standards (FMVSS) for school buses;
6. study and make recommendations regarding legislation and appropriate research in the field of student transportation;
7. develop and direct a statewide management information system for the collection and analysis of student transportation data such as operational costs, accidents and injuries, driver certification, and other data as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:494.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:625 (April 1999), amended LR 36:1466 (July 2010).

### **Chapter 3. Selection and Employment of School Bus Drivers and Attendants (Aides)**

#### **§301. Employment Requirements**

A. Any person hired or contracted to transport or assists in the transportation of students to and from school or school-related activities must meet certain requirements. This applies to full-time school bus drivers, substitute drivers, activity bus drivers, and bus attendants. Mechanics, supervisors, or other personnel who are licensed to drive school buses but do not actually transport students must fulfill the requirements of the Commercial Driver's License (CDL) Statutes. They may not otherwise be required to fulfill all requirements specified in this section.

B. Employment applications and job descriptions must meet the requirements of the Americans with Disabilities Act.

C. Specific job requirements necessitate specialized training for driving personnel and for bus attendants or aides before they are employed and during the entire terms of service in the transportation program. Each LEA shall be responsible for ensuring specific requirements for local school bus drivers are in accordance with state and federal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:168, and R.S. 32:52.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:628 (April 1999), amended LR 36:1467 (July 2010).

#### **§303. Certification of School Bus Drivers**

A. The term *school bus drivers* included in this Section includes anyone who is certified to transport students to and from school and school-related activities. Full-time drivers, substitute drivers (including bus attendants who may also be certified to drive in emergency situations), activity bus drivers (teachers, coaches, custodians, etc.), and any other employee who at any time transports students must be certified prior to transporting students.

##### **B. Initial and Annual Certification**

1. Initial certification on new applicants and annual certification of existing school bus drivers must be conducted by LEAs on all full-time and substitute school bus drivers. Documentation of those components required for initial certification must be verified and kept on file for all school bus drivers each year.

C. The following requirements are minimum requirements for certification of all school bus drivers in Louisiana; however, LEAs may establish additional criteria for driving personnel and/or bus attendants.

1. Drivers must be 18 years of age or older.

2. Initial applicants must undergo a criminal record check, including finger printing, as described in R.S. 17:15 and R.S. 15:587.1

3. All drivers must have a current and acceptable driving record verified by the Department of Public Safety and Corrections, Office of Motor Vehicles as required by R.S. 17:491.1, verified by the LEAs transportation supervisor, and maintained in the driver's permanent record. Additionally, these drivers must report moving violation convictions in accordance with CDL requirements.

a. No driver or applicant shall be employed as a school bus driver if within the past five years, they have been convicted of, or have forfeited a bond on, any charge of: DUI, possession, distribution, or use of a controlled dangerous substance, as defined by R.S. 40:963 et seq.; leaving the scene of an accident involving an injury or fatality; or any felony involving the use of a motor vehicle.

4. Drivers must have a commercial driver's license (CDL) issued by the state of residence, which includes a Passenger (P) and School Bus (S) endorsement. Airbrake authorization may also be required.

5. Drivers must pass a physical and eye examination meeting current CDL requirements. A copy of the examination record must be filed with the LEA transportation office before the beginning of each school year. More extensive and or frequent exams may be required by the LEA.

6. Drivers must pass a drug and alcohol screening meeting current CDL requirements.

7. Initial applicants must complete the following pre-service instruction requirements.

a. Each LEA must provide services for applicants to meet the minimum requirements for certification prior to transporting students on a school bus as outlined in the *Louisiana School Bus Operator Training* manual promulgated by the DOE.

b. Initial applicants must complete the 44 hour pre-service phase of the school bus driver training program which includes 30 hours of pre-service instruction provided by a DOE certified school bus operator instructor, four hours of vehicle familiarization, and 10 hours of on-the-bus training.

8. Newly hired school bus drivers shall be placed on a mandatory three-year probationary period prior to earning tenure within a LEA.

9. Annual or bi-annual in-service training for continued certification of school bus drivers must be conducted by the LEA. School bus drivers, including substitute drivers and activity drivers, must complete eight hours of in-service training within a two-year period. The eight hours of training may be provided in four hour annual in-service training opportunities each year.

D. Documentation of certification of school bus drivers must be maintained by the LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587, R.S. 17:15, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:432, R.S. 17:491, R.S. 17:493, R.S. 17:497, R.S. 17: 691, R.S. 32:52, R.S. 32:402, R.S. 32:408, R.S. 32:417, and R.S. 40:963, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:628 (April 1999), amended LR 36:1467 (July 2010).

#### **§305. Bus Attendants (Aides)**

A. Bus attendants must be assigned on all school buses as required by the Individualized Educational Plan (IEP). Bus attendants must be physically and emotionally able to assist the bus driver in all activities required to safely transport the student with special needs.

B. LEAs must determine selection criteria for bus attendants. Consideration must be given to annual physical

examinations, pre-service and bi-annual in-service training, and transporting students with special needs. The attendant may be certified to drive commercially. In the event the attendant is certified to drive commercially, all minimum requirements for school bus drivers must be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:629 (April 1999), amended LR 36:1467 (July 2010).

### **§307. Retaining School Bus Drivers**

A. LEAs must enforce the Federal Motor Carrier Safety Act of 1986, Part 383. All school bus drivers must meet the qualifications and guidelines set forth in the Act as follows.

1. School bus drivers shall possess only one valid driver's license issued by their state or jurisdiction of domicile. LEAs shall not knowingly use a driver who has more than one license or whose license is suspended, revoked, or cancelled, or is disqualified from driving. Violation of this requirement may result in civil or criminal penalties.

2. School bus drivers receiving suspension, revocation, cancellation, loss of privilege disqualification and/or right to operate a commercial motor vehicle by any state of jurisdiction, shall notify the school district before the end of the business day following the day the employee received the notice.

3. School bus drivers convicted of violating a state or local motor vehicle traffic law (other than parking violations), in any type of motor vehicle, must notify the LEA within 30 days of conviction.

B. School bus drivers violating Subpart B, License Requirements, and/or Subpart C, Notification Requirements, may be subject to fines and criminal penalties as stated in the Act.

C. The LEA must develop policies that require immediate action when a school bus driver violates any requirements of Part 383 of the Federal Motor Carrier Safety Act regulations:

1. School bus drivers must acknowledge that he/she understands the requirements of the Act and attest that driving and licensing information is correct.

2. Drivers must complete the Employer Notification Form and submit it to the district office when receiving suspension, revocation, cancellation, loss of privilege, disqualification, and/or right to operate a motor vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:493.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:642 (April 1999), amended LR 36:1468 (July 2010)

### **§309. Termination of Services or Removal of Certification**

A. Full-time bus drivers who have served the mandatory three-year probationary period and have acquired tenure may be terminated for cause, but only in accordance with the terms of R.S. 17:493. Reasons for dismissal include willful neglect of duty; incompetence; immorality; intoxication while on duty; physical inability to perform duties; failure to keep the school bus in a safe, comfortable and practical operating condition; being a member of or contributing to any group, organization, movement or corporation that is

prohibited by law or enjoined from operating in the State of Louisiana.

B. Additionally, the abolition, discontinuance or consolidation of bus routes may require a reduction in force, or lay-off of one or more bus drivers. The procedure prescribed in R.S. 17:493 must be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and 17:493.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999), amended LR 36:1468 (July 2010).

## **Chapter 5. Instructional Program for School Bus Drivers**

### **§501. Driver Training Program**

A. The application of federal and state minimum safety standards for school buses has been determined to improve the safety of passengers riding school buses within the state. Emphasis in driver training programs has reduced the school bus accident rate in which the school bus driver is at fault. The driver training program must continue to offer a means of educating drivers in safe, economical, and efficient school transportation operations.

B. LEAs, as well as the DOE, shall cooperate in designing and implementing training programs that will continue to develop the driver's potential for safe, accident-free driving.

C. LEAs are authorized to design specific course content for two distinct categories of drivers:

1. full-time and substitute bus drivers who transport students on daily routes to and from school; and

2. activity bus drivers who transport students occasionally to and from school-related activities (athletic events, parades, field trips, etc.).

D. LEAs must provide that all school bus drivers, including any school board employee who drives a bus on an occasional basis to transport students to and from school activities, attend in-service training not less frequently than once every other school year.

E. Two types of driver training make up the *Louisiana School Bus Operator Training*. Each LEA must provide pre-service and in-service training for drivers.

1. Pre-service training is designed to develop minimum skills in driver applicants.

2. In-service training is designed to improve skills, attitudes and knowledge of all who drive school buses in the state.

F. Pre-service training is designed to develop minimum skills in driver applicants. In order to ensure safe operation from the onset, all driver trainees must complete the 44 hour pre-service phase of the school bus driver training program. Pre-service certification of school bus drivers shall be through successful completion of the *Louisiana School Bus Operator Training* course conducted by a certified trainer. The training sessions must be of at least two days in length and conducted by instructors certified by the DOE.

G. Under special circumstances some drivers may be exempted from part of the required training. Examples of exemptions are segments of curriculum regarding:

1. student management and discipline procedures for certified teachers;

2. first aid for first aid teachers;

3. vehicle maintenance for school bus mechanics;

4. transporting students with disabilities; and
5. daily loading/unloading procedures for activity bus drivers.

H. Drivers who become certified within a year after pre-service training do not have to complete additional in-service training that same school year unless so required by the LEA.

I. Exemptions based on verification of previously completed courses or job related experiences are approved at the discretion of the LEA.

J. The required 44 hours of pre-service training shall consist of the following three phases and are described in the subsequent Section:

1. classroom instruction (30 hours);
2. vehicle familiarization and operation (behind the wheel) training (4 hours); and
3. on-the-bus training (10 hours).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999), amended LR 36:1468 (July 2010).

### **§503. Pre-service Training**

A. Classroom Instruction. The *Louisiana School Bus Operator Training* manual requires a minimum of 30 hours of pre-service instruction.

1. Unless exemptions are authorized in accordance with the preceding section, pre-service classroom instruction must include instruction in the following courses:

- a. First Aid Course (any approved first aid course)—4-8 hours;
- b. Drug/Alcohol Awareness Policy and Testing Procedures—2 hours;
- c. National Safety Council Bus Driver Defensive Driving Course, ("Coaching the School Bus Driver")—6-8 hours;
- d. appropriate units of DOE School Bus Driver Instructional Program—6-8 hours;
- e. Assertive Discipline/Passenger Management—1-2 hours;
- f. Transporting Students with Disabilities—1-2 hours;
- g. applicable federal and state laws and regulations, local ordinances, state and local policies governing school bus transportation—2-4 hours;
- h. state and local reporting procedures—2 hours.

2. Additional classroom instruction not to exceed four hours may include the following topics:

- a. Drug Abuse Prevention Awareness;
- b. Recognizing and Reporting Child Abuse;
- c. Preventive Maintenance;
- d. Commercial Driver's License (CDL) Pre-Test Training;
- e. special activity trip requirements; and
- f. other topics approved by the DOE.

B. Vehicle Familiarization and Operation Training (4 hours)

1. Prior to certification as a school bus driver, applicants must complete a minimum of four hours of vehicle familiarization and operation training (behind-the-wheel).

2. This instruction must be conducted in the type of vehicle(s) the applicant will drive and should cover at least the following operational topics:

- a. pre-trip, enroute, and post-trip inspection procedures;
- b. starting, stopping, and turning procedures;
- c. proper use of school bus signals;
- d. proper backing procedures;
- e. loading and unloading students;
- f. emergency procedures, including emergency evacuation;
- g. procedure at railroad crossings; and
- h. student safety instruction.

C. On-the-Bus Training. Prior to certification as a school bus driver, applicants must complete a minimum of 10 hours of driving a school bus. This phase of the training cycle is designed to introduce the driver to the actual school bus driving task. Additional training on-the-bus training may be required as determined by the supervisor of transportation. Supervised on-the-bus training should include, but need not be limited to, the following:

1. observe regular driver—2 hours;
2. drive empty bus—2 hours;
3. drive loaded bus—6 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:631 (April 1999), amended LR 36:1469 (July 2010).

### **§505. In-service Training**

A. In-service training, which is designed to improve the driver's skills, attitude and knowledge, is a vital part of the total school bus safety effort. To maintain certification, all certified school bus drivers must complete a minimum of eight hours of in-service training within a two-year period; however, annual in-service training is encouraged. (The required eight hours may be divided into two annual four-hour blocks, if so desired by the local transportation supervisor.)

B. Bus driver participation in in-service training sessions is mandatory for the driver to maintain certification. Training topics should be selected from the following courses based on the needs of the LEA:

1. appropriate units of the Louisiana School Bus Driver Instructional Program;
2. National Safety Council Defensive Driving Course: *Coaching the School Bus Driver*;
3. approved first aid course with emphasis on activities designed to meet school bus drivers' needs;
4. assertive discipline/passenger management training;
5. drug abuse prevention awareness training;
6. transporting students with disabilities;
7. recognizing and reporting child abuse;
8. commercial driver's license (CDL) training;
9. special activity trip requirements; and
10. other topics approved by the DOE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:631 (April 1999), amended LR 36:1469 (July 2010).

## **§507. Remedial Training**

A. School bus drivers may require remedial training if their performance does not meet standards set by state and local policy. Remedial training should be designed to improve specific areas of performance.

B. Additional training by the LEA in all phases of student transportation operations is encouraged.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:631 (April 1999), amended LR 36:1470 (July 2010).

## **Chapter 7. Vehicle Inspection and Maintenance**

### **§701. Inspection and Maintenance**

A. Proper maintenance of student transportation vehicles is vital for a safe, efficient, and economical transportation program. Student transportation vehicles include district owned school buses, independently owned school buses, or other approved vehicles used for transporting students to and from school and school-related activities. Each LEA shall adhere to the following procedures.

1. All student transportation vehicles must be maintained in safe operating condition through a systematic preventive maintenance program.

2. All student transportation vehicles must be inspected during the months of June, July, or August and certified as safe by the appropriate authority prior to the beginning of each school session. Re-inspection or more frequent inspections of vehicles may be made at the discretion of the LEA.

3. All student transportation vehicles must be inspected by an approved Commercial Motor Vehicle Inspection Station during December, January, or February of each school year. Re-inspection or more frequent inspections of vehicles may be made at the discretion of the LEA.

4. Accurate maintenance records must be kept for each school vehicle.

5. Student transportation vehicle drivers must conduct pre-trip inspections before beginning each trip, whether morning, mid-day or afternoon. Inspections must include all items required by the current CDL statutes.

6. Any defects or deficiencies in the areas listed above that may affect the safety of the vehicle's operation or result in its mechanical breakdowns must be reported verbally and in writing to the local transportation office and approval must be granted to continue operation of the vehicle.

7. A pre-trip inspection checklist designed by the LEA must be completed by drivers of all student transportation vehicles and maintained in the vehicle until it is filed with the local transportation office. Included in the pre-trip check should be an inventory of required documents: commercial driver's license, Department of Transportation physical verification, proof of vehicle insurance, copy of vehicle registration, student roster, seating chart, route description and stop locations (for daily routes), emergency telephone numbers, accident report forms, etc.

8. A written report shall be made at the completion of each trip or tour of duty regarding any defect, deficiency, malfunction or questionable performance of a student transportation vehicle.

9. A trip inspection must be conducted after each trip or individual run to check for passengers, equipment, medication, etc., that may have been left on the bus.

10. LEAs shall develop and provide approved pre-trip and post-trip inspection report forms to all school bus drivers and develop a system for collection and evaluation of the data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 36:1470 (July 2010).

## **Chapter 9. Vehicle Operation**

### **§901. Specific Procedures**

A. Specific procedures have been developed to ensure the highest possible degree of safety for school bus drivers and their passengers. All school bus drivers must be focused on safe operation of the vehicle. In addition to state and federal regulations, the school bus operation policies for each LEA must be in compliance with the Highway Safety Program Guideline No. 17, *Pupil Transportation Safety*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 36:1470 (July 2010).

### **§903. Loading and Unloading**

#### **A. Warning Signals**

1. As required in R.S. 32:318, red flashing warning signals must be used for student loading and unloading. At no other time are these lights to be used.

2. Red Four-Light Flashing Warning System. For buses equipped with a red four-light flashing warning system, drivers must activate the system at least 100 feet but not more than 500 feet before coming to a stop on the roadway. The lights must continue flashing for children to board, alight, and/or cross roadways.

3. Amber and Red Four-Light Flashing Warning System. For buses equipped with an amber and red eight-light flashing warning system, drivers must activate the amber flashing lights at least 100 feet but not more than 500 feet before coming to a stop. Red flashing warning lights must be activated when the bus is stopped and must continue flashing while children board, alight, and/or cross roadways.

#### **B. Locations**

1. It is the bus driver's responsibility to select a safe stopping point within LEA guidelines for students to load and unload from the school bus, even if this requires students to walk a distance.

2. The bus must stop in the right traffic lane, or the LEA has the option to permit loading and unloading on the shoulder of the road (when sufficient room exists on the shoulder or on adjacent state property) or on private property, when permission can be obtained from the owner and when no children are required to cross the highway to load or unload. (Off-road loading and unloading negates the effectiveness of flashing lights and stop arm signals. See also R.S. 32:80.)

3. Buses shall not stop within intersections to pick up or discharge students.

4. The school bus shall not be operated on school grounds except to pick up and discharge students or during student safety instruction exercises, but then only when students are carefully supervised.

C. Operations: Preparing to Safely Load or Unload Students

1. The bus driver must activate stop arms after the bus has stopped and before students are permitted to board or alight from the bus. When traveling on undivided roadways, the Louisiana "School Bus Stop Law" (R.S. 32:80) requires drivers of vehicles meeting or overtaking school buses stopped on a highway for the purpose of loading or unloading students to stop the vehicle not less than 30 feet from the school bus when flashing warning lights and stop arms have been activated and to remain stopped until the signals have been deactivated and the bus has resumed motion. (Bus drivers must deactivate signals before resuming motion.)

2. The bus driver must ascertain that traffic has stopped and only then open the door for entrance or exit of students.

3. The bus driver assumes a position behind the wheel before the first student boards and remains seated until the last student is discharged, except for approved loading and unloading of students with disabilities, emergencies, and securing pre-school students into occupant restraints.

5. Emergency doors shall not be used for routine student loading and unloading.

D. Operations: Safe Loading and Unloading Students

1. As the bus approaches a bus stop for student unloading, all students must remain seated until the bus comes to a complete stop and the bus driver has determined that it is safe for students to walk to the front of the bus and to exit.

2. The bus driver should be especially watchful for clothing, book bags, knapsacks, or other carry-on items that can be caught in the handrail or the bus door, thereby possibly causing student injury. The bus driver should always scan the area around the bus door before placing the bus in motion at bus stops.

3. The bus driver must allow all passengers to reach their respective seats before placing the bus in motion after passengers have boarded the bus.

4. Before crossing to the opposite side of the road, students must walk 10 to 15 feet in front of the bus on the shoulder of the roadway, checking the traffic, and then crossing when it is safe to do so. At no time should students be permitted to cross the road behind the school bus. Students who must walk parallel to the bus should walk approximately 10 feet from the side of the bus where space permits. Where space does not permit such a distance, the bus driver must determine that students are clear of the bus before setting the bus in motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 32:80, and R.S. 32:318.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), LR 36:1470 (July 2010).

## §905. Crossing Railroad Tracks

### A. Railroad Crossings: Stopping Requirements

1. The driver of any school bus, with or without students, shall come to a complete stop no closer than 15 feet but within 50 feet of the rail nearest the front of the bus.

2. Drivers making stops for railroad crossings shall observe traffic. Bus speed shall be reduced far enough in advance of the stop to avoid trapping other motorists in panic stops or rear-end collisions with the bus. On multiple lane roadways, the bus should stop in the right lane whenever possible.

3. During wet, stormy, or foggy weather, before placing part of the bus on the tracks, the bus driver must know that the crossing can be made safely. Any use of flares or warning signals must be taken as an additional warning of danger.

4. Turn signal lights may be operated in their hazard mode except when prohibited by state statute or local regulation. Except for hazard lights and brake lights, no other school bus signals will be activated for the railroad crossing.

5. When any school bus must stop for any railroad track at grade, all students must be silent until the crossing is completed.

6. After a train has passed the crossing on multiple tracks, the bus driver shall not drive the bus onto any track until the driver is certain that no other train (possibly hidden by the first train) is approaching on an adjacent track.

### B. Railroad Crossings with Traffic Signals: Requirements

1. The driver of a school bus that has stopped at any railroad track or tracks at which any crossing gate or barrier is closed or is being opened or closed, and flashing red lights and/or bells have been activated shall not proceed across such tracks unless by authorization from a law enforcement officer. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

2. At crossings controlled by traffic signals, the bus driver shall obey the traffic signals.

### C. Railroad Crossings: Procedures for Crossing

1. When the bus has stopped, the driver shall fully open the service door, listen and look in both directions along the track or tracks for approaching engines, trains or train cars.

2. For improved vision and hearing, the window at the driver's left and the service door should be opened, and all noisy equipment (radios, fans, etc.) should be turned off and should remain turned off until the bus has safely cleared the crossing.

3. If the view of the tracks is obstructed for 1,000 feet or less in either direction, no portion of the bus may be driven onto the tracks until the driver has made certain that no train is approaching. Although railroad signals may indicate the tracks are clear, the driver must develop and use visual and audible senses to determine whether or not it is safe to proceed.

4. The bus driver must never accept a lack of movement as an indication that the device is working or is out of order. A bus driver must always consider a railroad

grade crossing as conclusive warning of danger and shall not cross the track until the bus driver has determined that no train is approaching.

5. The school bus driver shall always drive across the tracks in an appropriate low gear and not change gears while crossing the tracks.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 32:80, R.S. 32:171, R.S. 32:173.1, and R.S. 32:174.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), LR 36:1471 (July 2010).

### **§907. Intersections, Turns, Driving Speeds, and Interstate Driving**

#### **A. Intersections**

1. Use only brake lights as signals when coming to a stop.

2. For buses equipped with standard transmissions, place the gearshift in neutral while waiting for the traffic to clear or for the traffic light to change to green.

3. Use the hand ("parking") brake if on a grade to prevent rolling backward or forward.

4. School buses should not stop within intersections to pick up or to discharge students.

#### **B. Turns**

1. Always activate turn signals at least 100 feet before beginning the turning maneuver.

2. Keep the bus as far right as possible for right turns to prevent other vehicles from passing on the right of the bus.

3. For left turns, keep the bus as close to the center line as possible. If two left turn lanes are designated, stay in the outside lane if possible to provide better visibility and a wider turning area.

4. Keep front wheels pointing forward until it is safe to make the turn. This will help to prevent the bus from being knocked into oncoming traffic in the event of a rear-end collision.

#### **C. Driving Speeds**

1. School buses must not be driven faster than 55 mph on highways, and no faster than legal speeds on city streets, in school zones, etc.

2. R.S. 32:62 sets the maximum speed at 35 miles per hour under conditions that require frequent stops to receive and discharge students when the posted speed is 35 miles per hour or greater.

#### **D. Interstate Driving**

1. School buses must use the right lane except for passing, for exiting to the left, or for hazardous conditions.

2. At no time shall a school bus be operated in excess of 55 miles per hour, including interstate highway travel.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:62.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), LR 36:1472 (July 2010).

### **§909. Use of Cell Phones**

A. No person shall engage in a call on a cellular radio telecommunication device while driving a school bus except in emergency situations.

B. A cellular radio telecommunication device is defined as a device capable of sending or receiving telephone communications without an access line for service and which requires the operation to dial numbers manually or by voice recognitions. It does not include citizens band radios.

C. The use of cellular telephones by school bus operators shall be authorized for communication with any of the following regarding an emergency situation:

1. an emergency system response operator, 911 public safety communications dispatcher, or school administrator;
2. a hospital or emergency room;
3. a physician's office or health clinic;
4. an ambulance or fire department rescue service; and
5. a fire department or law enforcement agency.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:289.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), amended LR 36:1472 (July 2010).

### **§911. Prohibition of Drugs and Weapons**

A. School buses are an extension of the school campus and are designated as a drug free zone.

B. Smoking shall be prohibited on any school bus used for the transportation of children attending any public elementary or secondary school.

C. The ownership, possession, or custody of illegal weapons as defined in state law is prohibited from being carried or concealed on a school bus.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 14:95, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:240, and R.S. 17:405.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 36:1472 (July 2010).

### **§913. Passengers**

A. Passengers must be instructed to remain seated with hands, arms, and heads inside the bus at all times.

B. All standing is prohibited. At no time may a student stand while the bus is in motion.

C. In compliance with R.S. 32:293, it shall be unlawful for anyone responsible for the transportation of children to permit a number of passengers exceeding 100 percent capacity of a bus to be transported at one time. (School bus capacity is determined by the bus body manufacturer.)

D. The LEA must determine the number of students to be transported in a school bus, but the number must not exceed the manufacturer intents. Auxiliary seating accommodations are not permitted.

E. The bus must never be fueled while passengers are on board or while the engine is running.

F. Drivers shall not leave their buses while passengers are on board unless there is an extreme emergency. If an emergency requires the driver to leave the bus, the engine must be stopped and the ignition key removed by the driver.

G. While the engine is running, the driver shall not leave the bus at any time when passengers are on board. When the bus is empty, the driver should not leave the bus when the engine is running except when inspecting, servicing, or repairing the bus requires the driver to do so. Drivers of buses transporting students with disabilities who must assist

in the loading and unloading of passengers in wheel chairs are not considered to have left the bus so long as they remain on or beside the bus to assist with the loading or unloading, itself.

H. Passengers in Type A school buses (buses with a gross weight of 10,000 pounds or less) are required to wear occupant restraints when the vehicle is in motion. Occupant restraints must comply with the requirements of the FMVSS Numbers 208, 209, and 210.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:293.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), LR 36:1472 (July 2010)

#### **§915. Miscellaneous**

A. Drivers should constantly scan the interior of the bus as well as the areas ahead, to the sides, and to the rear of the bus.

B. Drivers are required to wear seat belts and other safety devices provided by the bus manufacturer at all times while the bus is in motion.

C. The service (entrance) door and the emergency exit door(s) must remain closed at all times while the bus is in motion. School bus aisles must be kept clear and doors and emergency exits must remain unobstructed at all times.

D. Buses must not be backed except in situations where there is no safer alternative. If there is no safe alternative to backing, these warnings should be heeded.

1. Students must be boarded and seated and remain on board the bus when the bus is being backed.

2. The school bus driver must arrange for assistance during backing maneuvers.

E. Headlights shall be turned on whenever it is necessary to use windshield wipers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:281.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), LR 36:1473 (July 2010).

### **Chapter 11. Emergency Evacuations**

#### **§1101. Determining Emergency Evacuations**

A. Safety is the key word for school transportation in Louisiana. The most important obligation shared by all persons involved in school transportation is their collective responsibility for the safety of the passengers at all times. The safety of the passengers must be considered first when evacuating a school bus.

B. Mandatory emergency evacuation procedures as defined by BESE and outlined in the *Louisiana School Bus Operator Training Manual* must be enforced for all emergency evacuations.

C. School bus drivers are responsible for determining when it is safe for students to exit the bus when an emergency occurs. If the bus is not in danger, the decision to exit the bus must be based on the security of the passengers.

D. Decide whether or not to evacuate the bus. Evacuate the bus if any of these conditions exist:

1. presence of fire or toxic fumes;
2. danger of fire;
3. unsafe position of the bus; or
4. hazardous weather conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:2793, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:398.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:838 (May 1999), amended LR 36:1473 (July 2010).

#### **§1103. Fire or Danger of Fire Evacuations**

A. The bus should be stopped and evacuated immediately if the engine or any portion of the bus is on fire.

B. Being near an existing fire and unable to move the bus away, or being near the presence of gasoline or other combustible material should be considered as "danger of fire," and students should be evacuated.

C. Students should move to a safe place 100 feet or more from the bus and remain until the driver of the bus has determined that no danger exists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:2793, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:398.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:642 (April 1999), amended LR 36:1473 (July 2010).

#### **§1105. Unsafe Position Evacuations**

A. In the event that a bus is stopped due to an accident, mechanical failure, road conditions, or human failure, the driver must determine immediately whether it is safe for students to remain in the bus or evacuate.

B. The driver must evacuate if any of these conditions exist.

1. The final stopping point is in the path of any train or adjacent to any railroad tracks.

2. The stopped position of the bus changes and increases the danger. If, for example, a bus should come to rest near a body of water or near the edge of a cliff, it should be evacuated. The driver should be certain that the evacuation is carried out in a manner that affords maximum safety for the students.

3. The stopped position of the bus is such that there is danger of collision. In normal traffic conditions, the bus should be visible for a distance of 300 or more feet. A position over a hill or around a curve where such visibility does not exist should be considered reason for evacuation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:2793, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:398.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:838 (May 1999), amended LR 36:1473 (July 2010).

### **Chapter 13. Student Instruction**

#### **§1301. Safe Riding Practices**

A. Because of the increased number of students being transported and the ever increasing number of accidents on the highways, there is a need to instruct students on safe riding practices and on proper evacuation of a school bus in case of an emergency.

B. It is the responsibility of each LEA to develop policy that requires safe riding practices and proper emergency evacuation instruction for all students. Each LEA must have measures in place to ensure that all students have received intensive classroom instruction. Instruction must include the following:

1. student behavior;

2. identifying individuals who have authority over passengers;
3. loading and unloading procedures;
4. seat assignments;
5. acceptable conduct on the bus, e.g. talking, moving around, and use of windows;
6. keeping the bus clean;
7. care of the bus and its equipment;
8. emergency procedures, including evacuation drills;
9. meeting the bus, waiting for the bus, leaving the area after unloading; and
10. all other applicable local and state rules and regulations.

C. This instruction shall be presented twice each year, at the beginning of each semester. Student instruction information should be coordinated to involve bus drivers, bus attendants, teachers and principals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:95, R.S. 17:223, R.S. 17:240, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:405, and R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:839 (May 1999), amended LR 36:1473 (July 2010).

### §1303. Emergency Exit Drills

A. Students who ride a school bus must be instructed in organized emergency exit procedures. Schools shall organize and conduct, in accordance with the *Louisiana School Bus Operator Training Manual*, emergency drills for all students who may ride school buses.

B. One emergency exit drill shall be held during the first six weeks of each school semester. LEA administrators must provide opportunities at the beginning of each semester for all students riding a school bus to and from school to participate in emergency drill exits.

C. Three exit drill methods are required.

1. All passengers exit through the service (front) door.
2. All passengers exit through the rear emergency exit.
3. Passengers in the front half of the bus exit through the service door; passengers in the rear half exit through the rear emergency exit.

D. If an additional emergency exit door is installed on the bus, passengers should be taught how to exit through this door. It is not necessary to require exiting through emergency exit windows and roof-top hatches during drills, but evacuation procedures using these exits should be explained to passengers.

E. The following guidelines are given for conducting the emergency exit drills:

1. have a local written policy covering the drills;
2. school officials should schedule drills with drivers;
3. practice drills on school grounds, during school hours, in a safe place, and under supervision of the principal or by persons assigned by the principal to act in a supervisory capacity;
4. time and record each drill;
5. practice exiting the bus through the service (front) door and the emergency rear and/or side door. Instruct students on use of other available emergency exits; and
6. students shall practice going a distance of at least 100 feet from the bus and remain there in a group until further directions are given by the principal or persons

assigned by the principal to act in a supervisory capacity. Practice drills must provide instruction for student helpers to assist passengers from the bus. Further direction for regarding student helpers as discussed in §1307. Students must be instructed in how and where to get help in emergencies.

F. Important Factors Pertaining to School Bus Evacuation Drills

1. Safety of students is of the utmost importance and must be considered first.

2. All drills should be supervised by the principal or by persons assigned to act in a supervisory capacity.

3. The bus driver is responsible for the safety of the students. In the event of driver incapacitation, see Section 1307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:632 (April 1999), amended LR 36:1474 (July 2010).

### §1305. Verification of Classroom Instruction and Drill Procedures

A. The school principal is responsible for certifying that the passenger instruction and emergency drill procedures have been completed as required.

B. A copy of the *Certification of Passenger Instruction* form and *Emergency Evacuation Drill* form must be verified by the school principal and submitted to the LEA to be maintained in the current transportation files.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:632 (April 1999), amended LR 36:1474 (July 2010).

### §1307. Student Helpers

A. Student helpers can be valuable assistants in times of emergency, especially if the driver is incapacitated and unable to direct emergency procedures at the scene of an emergency and no trained adult is available to assist. If student helpers are included in the emergency plan, they should be responsible, should be regular riders, and should live near the end of the bus route. Written parental consent should be obtained by the driver before students are designated for this purpose.

B. Designated students should be taught these basic procedures:

1. how to turn off the ignition switch;
2. how to set the parking brake;
3. how to summon help;
4. how to direct emergency exits;
5. how to set emergency reflective markers; and
6. under what conditions they are authorized to take action and what action they are to take.

C. The bus driver should perform all these functions when possible and should use student helpers only to help with orderly evacuations except when the driver is unable to direct the operation personally.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:839 (May 1999), amended LR 36:1474 (July 2010).

## **Chapter 15. School Bus Routes**

### **§1501. Routes: Authority and Responsibilities**

A. The term *route* shall apply to the combined total daily trips (or "runs") regularly assigned to the bus driver. The statutory authority governing the establishment and continuation of school bus routes in Louisiana is R.S. 17:158 and R.S. 17:497. BESE has been granted the authority under the provisions of R.S. 17:164, et seq., to establish and adopt regulations relating to the operation of school buses in the transportation of students to and from school. These statutes shall be used as a basis in decisions concerning the transportation program in a LEA.

B. The primary responsibility for establishing and continuing school bus routes rests with the LEA. Each LEA has the authority to set additional policies that are not in conflict with state or federal regulations.

C. LEAs are responsible for maintaining safe, efficient, economical school transportation programs by:

1. establishing and continuing only those routes that are needed to assure timely arrivals and departures within the framework of established school hours;

2. designing routes to achieve maximum utilization of buses and the elimination of unnecessary and duplicated mileage; and

3. consolidating and eliminating bus routes when they are no longer needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:497.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:1475 (July 2010).

### **§1503. Determining Bus Routes**

A. School bus routes must be designed so they begin at the farthest point from the school or schools served and proceed on the shortest charted course.

B. Exceptions may exist when local school officials determine it is more economical to do otherwise and/or when there are hazardous conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:634 (April 1999), amended LR 36:1475 (July 2010).

### **§1505. Routes: Filling Vacancies**

A. When filling school bus route vacancies for LEA-owned school buses, the procedures as outlined in R.S. 17:493.1 must be followed.

1. The opportunity to change from the current assigned route to the vacant route must be offered to tenured school bus operators in the order of seniority.

2. If no tenured operator chooses to change to the vacant route, the route shall be offered to a full-time probationary bus operator.

3. If no tenured or probationary operator chooses to change to the vacant route, a substitute bus operator shall be selected from a list of approved substitute school bus operators.

B. When filling school bus route vacancies for contracted owner-operator school buses, procedures for new owner-operator acquisition of the school bus are stipulated in R.S. 17:493.1.

1. The vacated route shall be offered first to any person meeting the requirements of the LEA who is willing to acquire the bus of the retiring operator.

2. The acquisition of the school bus by the new owner-operator must guarantee that the retiring owner-operator driver received full appraised value for the bus using regularly accepted appraisal methods to determine fair market value.

3. These requirements are applicable only when the bus owned by the retiring operator has been manufactured within a period of five years immediately prior to the operator's retirement and the operator is retiring due to a documented physical disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:493, and R.S. 17:500.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:1475 (July 2010).

## **Chapter 17. Compensation of School Bus Drivers**

### **§1701. Salary Compensation Based on School Bus Routes**

A. The term *route* shall apply to the combined total daily trips (or "runs") regularly assigned to the bus driver.

B. Bus routes are measured in terms of "one-way mileage." Paid one-way mileage for contract drivers begins when the first child is picked up and ends when the final destination or school is reached.

C. When one-way mileage differs in the afternoon from that of the morning route, the one-way mileage for the morning and afternoon is totaled and divided by two. The result is the average one-way mileage for that particular route.

D. The rate of compensation is determined by the length of the school bus for the first 6 miles, next 6 miles and over 12 miles as specified in R.S. 17:497.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166 and R.S. 17:497.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:1475 (July 2010).

### **§1703. Salary Compensation: Frozen Mileage**

A. Mileage may be frozen at the current rate of compensation for contracted owner-operators of school bus drivers as mandated in R.S. 17:497.

B. Frozen mileage guarantees that the contract owner/operator cannot be penalized by a reduction of compensated mileage (except as may be requested by the owner/operator) for a period of seven years when a new bus is purchased or five years when a used bus not more than five model year old is purchased.

C. If route mileage is increased, operational mileage compensation must be increased accordingly, if route mileage is decreased because of circumstances beyond the control of the owner/operator, operational mileage compensation shall not be reduced below the mileage level indicated on the original School Bus Purchase Form.

D. If a driver requests and is granted less mileage than the frozen mileage, actual mileage shall be compensated.

E. Frozen mileage applies only when the owner/operator makes a purchase of a new or used bus not more than five model years old.

F. The transfer of a bus from spouse to spouse, acquisition as a gift, etc., other than a purchase does not afford frozen mileage to the person who acquires the bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:497.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:634 (April 1999), amended LR 36:1475 (July 2010).

#### **§1705. Alternative Transportation Driver Compensation**

A. Procedures for reimbursement of drivers in LEA-approved vehicles who transport students with disabilities is further defined in Chapter 21, §2107 and §2109.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1476 (July 2010).

### **Chapter 19. Transporting Students**

#### **§1901. Transporting Eligible Students**

A. In accordance with Louisiana Revised Statute 17:158, each LEA shall provide free transportation for any student who attends a school of suitable grade approved by BESE if the student resides more than one mile from such school, and the school is within the jurisdictional boundaries of the LEA.

B. The distance shall be determined as extending from the student's driveway or entrance to the nearest public road, to the walking entrance of the school building. (The distance shall be measured by the most direct route and may be along roads and walkways.)

C. No person other than assigned students and authorized persons approved by the local Transportation Supervisor or other authorized school officials are allowed to board the bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:634 (April 1999), amended LR 36:1476 (July 2010).

#### **§1903. Transportation of Students Living Within One Mile of School of Attendance**

A. BESE allows the LEA to transport students living within one-mile of the school they attend if there are "exceptional" or hazardous walking situations.

B. The transportation of these students requires special permission from BESE.

1. Approval of requests for the transportation of students living less than one mile from the school they attend will not be approved unless the request for such approval is accompanied by a plan or procedure to eliminate the exceptional conditions (if possible) by providing safe walking areas and conditions.

2. The plan must identify the problem, list proposed solutions, outline procedures to correct the problem, and include the time schedule for completion.

3. When an emergency exists, the state Superintendent of Education may authorize transportation, not to exceed 30 days.

4. The conditions must be reviewed for continued approval. All exceptional conditions shall be reviewed by June 30 of each school year by the local LEA to determine whether corrective actions can be made in order to relieve the need for this transportation.

C. R.S. 17:158(A) allows 15 LEAs to transport within one mile if hazardous conditions exist, but at no cost to the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:497.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1476 (July 2010).

#### **§1905. Transportation of Student in Foster Care**

A. Each LEA shall establish a policy to ensure that a student who is in foster care pursuant to placement through the Department of Social Services (DSS) shall be allowed to remain enrolled in the public school in which the student was enrolled at the time he or she entered foster care, if DSS determines that remaining in the school is in the best interest of the student.

B. If the foster care placement is outside the jurisdictional boundaries of the school in which the student is enrolled, the governing authority of the school shall be responsible for providing free transportation for the student to and from a designated location which is within that school district and is located nearest to the student's residence.

1. The location must be determined to be appropriate by such governing authority and DSS.

2. DSS shall be responsible for providing the child's transportation between that location and the child's residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:238.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999), amended LR 36:1476 (July 2010).

### **Chapter 21. Transporting Students with Disabilities**

#### **§2101. Transporting Students with Disabilities**

A. Public Law 93-112, Section 504, requires "that no individual, solely by reason of his handicap, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance" and the Individuals with Disabilities Education Act (IDEA) requires a LEA to provide non-academic and extracurricular services and activities in a manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities. The LEA shall provide transportation services to implement any Individualized Educational Plan (IEP) for a student with a disability whose residence falls within the jurisdiction of the LEA, as defined in Bulletin 1706, *Regulations for Implementation of the Children with Exceptionalities Act*. The LEA must incur the cost of providing services and specialized equipment.

B. All students with disabilities (regardless of age) are eligible for free appropriate public education (FAPE). Facilities, services and activities provided to students with disabilities must be comparable with those provided to non-disabled student, and students with these disabilities must have an equal opportunity for participation in any non-academic and extracurricular services and activities provided by a LEA.

C. LEAs must provide transportation services in such a manner to afford students with disabilities an equal opportunity for participation in those services.

D. LEA personnel involved in transporting students must be knowledgeable with the laws and regulations required for transporting students with disabilities.

E. LEA transportation staff must work closely with LEA personnel to ensure that services meet or exceed those required by law and current BESE policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999), amended LR 36:1476 (July 2010).

### **§2103. Guidelines for Providing Transportation Service for Students with Disabilities**

A. LEAs must comply with IDEA, Section 504, Louisiana statutes and regulations and policies set forth in the DOE bulletins governing educational services for students with disabilities.

B. LEA transportation staff must develop procedures to minimize conflicts and resolve issues that may arise in transporting students requiring additional services.

C. LEAs must provide school bus service for students with disabilities as indicated in the student's IEP. The IEP may specify "curb-to-curb" or "door-to-door" services. When alternative modes of transportation are required, approval must be granted by the special education supervisor and LEA transportation authority. Alternative arrangements must be stated in the IEP.

1. The term "curb-to-curb" implies that bus drivers and bus attendants are responsible for loading and unloading students at their home bus stops and at school loading/unloading areas. The term "door-to-door" implies that the bus driver and or bus attendant are responsible for loading and unloading students at that door and at school loading/unloading areas. This related service does not extend to the interior of the student's home.

2. In determining whether to include transportation in a student's IEP, the IEP team must consider how the student's disability affects the student need for transportation. Factors such as the student's ability to move independently, ability to reason and understand potential safety hazards en route to the bus stop as a result of the student's age or disability, nature and condition of the route, availability of public assistance, and access to private assistance.

3. If a student with a disability can use the same transportation as non-disabled students, then transportation is not likely to be a related service and the LEA may make the same transportation provisions for the student with a disability that it does for the general population.

4. Students with disabilities may not have transportation schedules which differ from non-disabled students. Students with disabilities must be transported on a schedule which allows them to receive a full instructional day as documented on the IEP.

5. Certain students may be picked up at a safe bus stop near (e.g., at the corner) their residences. Alternate arrangements can be made that are mutually agreeable to all parties, but must be handled on an individual basis and indicated in the IEP.

6. Parents must request approval from the school and the school bus driver when the child is going to be picked up or dropped off at a location different from the student's residence. Prior approval from the LEA transportation office is required if the different location results in time conflicts, overloads, or an increase in the driver's mileage. Final approval rests with the LEA.

7. Local procedures must be developed to specify whether bus drivers, bus attendants, classroom teachers, teacher assistants, or other staff is responsible for taking students to and from the school buses at the school site.

D. When attendance at a school outside the student's geographic zone is mutually agreeable and determined to be part of the student's FAPE, the home LEA has the responsibility to provide transportation, if transportation is also related to FAPE. In situations where the student attends an out-of-district school based solely on personal preference and the home LEA has offered an opportunity for FAPE, transportation may not be required even in instances where the student may otherwise qualify for this service.

E. The LEA cannot discharge its obligation to transport a student with a disability who needs transportation as a related service by requiring parents, without their agreement, to provide the transportation themselves and receive mileage reimbursement. However, while the LEA cannot demand this arrangement, it is not unreasonable for the LEA to request such an arrangement.

F. LEAs must ensure that:

1. all school buses used to transport students with disabilities comply with current applicable Louisiana Revised Statutes, Louisiana State Department of Education Standards, and with all other standards as may be established by governing authorities;

2. specialized equipment used to transport students to educational sites complies with all Federal Motor Vehicle Safety Standards (FMVSS), where such standards are applicable;

3. appropriate safety measures are used in the transportation of students with disabilities, especially when extraordinary measures are required;

4. supervision of students is in compliance with LEA policies and the IEP;

5. students being transported spend only a reasonable amount of time on the bus. The locations of the residence and the school facility and the specific needs of the individual student will be determinant factors in length of travel time.

E. It is the responsibility of the LEA to employ and train qualified school bus drivers and substitute drivers as needed to transport eligible special education students. Bus attendants must be trained to assist in transporting students with disabilities when necessary and appropriate as a related service.

1. The need for a bus attendant is a decision of the LEA, unless the requirement is documented on the student's IEP.

2. Providing a bus attendant for any student with a disability shall be considered by the IEP team. This decision should be made on an individual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999), amended LR 36:1477 (July 2010).

### **§2105. Transportation for Summer Programs**

A. When the IEP committee recommends an extended year program, the students are entitled to the related transportation service. Summer transportation will follow the same guidelines that are in effect during the school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999), amended LR 36:1477 (July 2010).

### **§2107. Transportation of Students with Disabilities by Other than a School Bus**

A. LEAs should meet the following requirements in providing transportation for students who cannot be transported by school buses or within the regular established school bus routing system, and must be transported in cars, vans, or other specially equipped vehicles.

1. Transportation routes will be established by the LEA. These routes must be well planned to ensure economy and efficiency. All existing transportation requirements of the LEA must be considered prior to establishing an additional route.

2. Drivers of vehicles on the special routes will neither be subject to provisions of R.S. 17:496 (minimum salary schedule) nor will they be eligible for tenure.

3. Vehicles used on these special routes (private cars, station wagons, vans, etc.) will be subject to safety inspections and carry the necessary insurance coverage required by the LEA.

4. LEAs will reimburse drivers of vehicles (private cars, station wagons, vans, etc.) approved by the LEA for such purposes at the current state approved rate for reimbursement of mileage on the basis of miles traveled for one round trip per vehicle for each day of attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:636 (April 1999), amended LR 35:645 (April 2009), LR 36:1478 (July 2010).

### **§2109. Transportation of Residential (Boarding) Students**

A. The transportation policy for the Special School District and the Board Special Schools shall be established separately by those entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:636 (April 1999), amended LR 36:1478 (July 2010).

### **§2111. Removals from Transportation Services**

A. Transportation services cannot be terminated for students with disabilities without the approval of the LEA transportation staff and exceptional services staff in consultation with school officials, parents, and school bus driver and must be in accordance with Bulletin 1706 disciplinary provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:636 (April 1999), amended LR 36:1478 (July 2010).

## **Chapter 23. Bus Body Standards for School Buses**

### **§2301. Forward**

A. All student transportation vehicles purchased on or after July 1, 1998, shall meet or exceed the requirements herein. The appropriate sections of these specifications apply to all school buses for student transportation in Louisiana which are purchased, owned, or operated by a LEA and to all school buses leased or contracted to a LEA by private

owners for the transportation of students to and from school and all school-related activities.

B. Any part of these specifications may be changed at any time by addenda adopted by BESE in accordance with the Administrative Procedures Act. Changes will be made to comply with changing FMVSS or statutes of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:643 (April 1999), amended LR 36:1478 (July 2010).

### **§2303. Federal Motor Vehicle Safety Standards (FMVSS)**

A. All school buses shall meet or exceed the minimum requirements of all applicable FMVSS as found in 49 CFR 571.

B. All school buses shall be equipped as required by applicable FMVSS.

C. In addition to FMVSS regulations, school buses used to transport students to and from school and school-related activities must meet the school bus body, chassis or equipment that meets the latest revised minimum standards for school buses adopted and recommended by the National Conference on School Transportation, sponsored by the National Council of Chief State School Officers, the American Association of School Administrators, NEA, the Department of Rural Education, NEA, and the U.S. Office of Education. Copies of the current National Conference on School Transportation specifications can be obtained through the website: [www.ncstonline.org](http://www.ncstonline.org).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:643 (April 1999), amended LR 36:1478 (July 2010).

### **§2305. Definitions and of School Bus Types**

A. School buses must meet both federal and state definitions.

1. Federal definition—school bus means a passenger motor vehicle designed to carry a driver and more than 10 passengers, which the Secretary of Transportation decides is likely to be used significantly to transport preprimary, primary, and secondary students to or from school or an event related to school.

2. State definition—school bus means every motor vehicle that complies with the color, equipment, and identification requirements required by law and is used to transport children to and from school or in connection with school activities, but not including buses operated by common carriers in urban transportation of school children.

#### **B. School Bus Types**

1. *Type A*—a conversion or body constructed and installed upon a van-type compact truck or front-section vehicle, with a gross vehicle weight rating of 10,000 pounds or less, designed for carrying more than 10 persons.

2. *Type B*—a conversion or body constructed and installed upon a van or front-section chassis, or stripped chassis, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. Part of the engine is beneath and/or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels.

3. *Type C*—a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. All of the engine is in front of the windshield and the entrance door is behind the front wheels.

4. *Type D*—a body installed upon a chassis, with the engine mounted in the front, midship, or rear, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. The engine may be behind the windshield and beside the driver's seat. It may be at the rear of the bus, behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels.

C. No vehicle with rated capacity of more than 10 passengers shall be classified as a school bus and thereby used to transport students to and from school and school-related activities unless said vehicle originally was manufactured and certified as a school bus and maintained the certification as a school bus all in accordance with federal and state requirements throughout the life of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:1478 (July 2010).

## **Chapter 25. Purchase, Sale, Lease, and Repair of School Buses**

### **§2501. Responsibility of Dealers and Manufacturers**

A. The responsibility of compliance with school bus specifications rests with the vendors and manufacturers.

B. If any vendor or manufacturer sells school transportation equipment that does not conform to all these and all other applicable state and federal specifications, the vendor shall be required to make necessary conversions to bring the vehicle into compliance. All cost related to such alteration shall be borne by the vendor.

C. LEAs shall have the option of imposing additional specifications that exceed state and federal standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:1479 (July 2010).

### **§2503. Purchase of School Buses**

A. All school bus vendors shall certify to the purchaser (LEA, contract, or individual), upon delivery that the school bus(es) sold for use by Louisiana school systems meet or exceed all standards specified herein and comply with the applicable FMVSS set forth by the United States Department of Transportation.

B. LEAs are authorized to voluntarily pool bids for school bus purchases for economical acquisition of school buses and related equipment and supplies.

C. It is mandatory that the seller of any new or used school bus shall complete a School Bus Purchase Form verifying that the purchased vehicle meets all state and federal school bus specifications applicable at the time of manufacture.

D. LEAs must keep current records of purchases of school buses. Information must be provided to the DOE upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:494.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:1479 (July 2010).

### **§2505. Sale of School Buses**

A. LEAs are authorized to purchase school buses and to resell such buses to any school bus operator employed by the LEA or with whom the LEA has contracted to provide transportation services for students.

B. The bus shall be used by the operator to transport students on the operator's assigned bus route. All mandates of Louisiana statutes must be met prior to the sale.

C. LEAs must keep current records of sales of school buses. Information shall be provided to the DOE upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:1479 (July 2010).

### **§2507. Lease of School Buses**

A. LEAs may lease a school bus owned by any school bus operator employed by the LEA or with whom the LEA has contracted to provide transportation services for students from the school bus operator.

B. The school bus shall be used by the operator to transport students on the operator's assigned bus route.

C. Lease agreements must follow state regulations as described in R.S. 17:158.7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1479 (July 2010).

### **§2509. Used School Buses**

A. Any used school bus purchased for use in Louisiana by or for a school system shall meet current legal requirements of the Louisiana Revised Statutes for motor vehicles and shall meet Louisiana specifications for school buses that were in effect on the date the vehicle was manufactured. No vehicle with rated capacity of more than 10 passengers shall be classified as a school bus and thereby used to transport students to and from school and school-related activities unless said vehicle originally was manufactured and certified as a school bus and maintained the certification as a school bus all in accordance with federal and state requirements throughout the life of the vehicle.

B. All replacement school buses, at the time they are acquired by the owner, must be 10 or less model years old for tenured owners/operators and school districts and five or less model years old for non-tenured owners/operators. The number of years shall be reckoned from the date of the model year (see *Calculating the Age of School Buses*, §3107).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 26:639 (April 2000), LR 27:187 (February 2001), LR 36:1479 (July 2010).

### **§2511. Life of a School Bus**

A. School buses shall not exceed the age of 25 model years (see *Calculating the Age of School Buses*, §3107). LEAs must be in compliance with this standard by January 2011.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1480 (July 2010).

### **§2513. Insurance for School Buses**

A. LEAs have the authority to enter into and consummate contracts for insurance covering loss of life or personal injury of the children while being transported to and from school and school related activities.

B. Insurance for District-Owned School Buses. All premiums for all insurance policies of public liability and property damage insurance applying to and covering school buses owned by LEAs shall be the obligation of and payable by, the board owning such buses.

C. LEAs are not prevented from paying the premiums for public liability and property damage insurance covering and applying to privately owned buses used for transportation of students on behalf of the LEA.

D. Insurance for Contracted Services. State law authorizes LEAs contracting for the use of privately owned school buses to procure contracts on a fleet or group basis for the owners who are insuring the vehicles.

E. The amounts required or to be required during each year to make the premium payments may be withheld from compensation due the owners in equal monthly installments.

F. Contracts must in compliance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:159, R.S. 32:601, R.S. 32:604, and R.S. 45:162.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1480 (July 2010).

### **§2515. Repair of School Buses**

A. Any repairs or alterations to any bus that fall under the guidelines of this bulletin shall be made in accordance with all specifications contained herein and all applicable FMVSS.

B. At the time of purchase, the seller of any school bus must disclose to the purchaser, which components of the vehicle are subject to a manufacturer's or distributor's warranty agreement.

C. School bus warranty repair work, except for engine and transmission repair work, shall be performed by repair facilities authorized by the manufacturer or distributor which are not school bus dealers.

D. Manufacturers of school buses licensed by the Louisiana Motor Vehicle Commission are authorized to provide warranty and other repair or maintenance services to be performed at any location of a licensed motor vehicle dealer which holds a franchise from any affiliate or subsidiary of the school bus manufacturer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:1261.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:1480 (July 2010).

### **§2517. Sanctions**

A. Any school bus that does not meet the minimum specifications set forth in this bulletin must not be used until such time that the bus is in compliance with the rules of this bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:1480 (July 2010).

## **Chapter 27. Evaluation of the Student Transportation System**

### **§2701. Criteria**

A. Each LEA should have a plan for annually evaluating its student transportation operation. There are several criteria which can be applied to obtain some estimates of the operation's effectiveness. These criteria relate to such factors as safety, efficiency and economy.

B. Safety criteria should include, but is not limited to:

1. injuries to students, the driver and other highway users;
2. frequency and severity of property damage accidents in which buses are involved;
3. frequency and severity of moving traffic violations for which drivers are cited;
4. frequency and nature of complaints from parents, the motoring public, school administrators and students;
5. frequency and nature of vehicle breakdowns, road failures and other emergency situations involving buses; and
6. hazardous situations on bus routes.

C. Efficiency and economy criteria includes, but is not limited to:

1. bus route operation within the framework of established school hours;
2. minimizing the actual time students are on the bus;
3. routes designed to achieve maximum utilization (i.e., full capacity within reason), and elimination of unnecessary mileage and duplication; and
4. annual review of all routes and routing procedures, including stop-times.

D. The LEA school transportation evaluation program must provide for periodic evaluation of progress along predetermined time schedules and a point-by-point comparison of the system's present program with state policies and standards to identify deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:1480 (July 2010).

## **Chapter 29. Records and Reports**

### **§2901. Records and Reports**

A. School Bus Driver Records. Files on all school bus drivers, including substitutes and activity drivers, must be maintained by the LEA. The following documents must be included in these records:

1. driver data;
2. vehicle accident/incident records, including Employee Notification Forms;

3. complaints;
4. liability insurance policy verification for contract drivers;
5. documentation of completion of bus driver's training courses (pre-service and in-service); and
6. medical examination reports.

B. School Bus Records. Files on all school buses must be maintained by the LEA. The following documents must be included in these records:

1. vehicle data; and
2. vehicle inspection and maintenance records.

C. School Bus Route Records. Files on all school bus routes must be maintained by the LEA. The following information and maps must be included in these records:

1. description of each driver's route;
2. location of driver's home or point of departure;
3. beginning point, individual stops, and final destinations of each route or daily trip or daily runs; and
4. school or schools being served.

D. Financial Data. The DOE and BESE shall develop procedures and forms for LEAs to report transportation data and for receiving state funding for transportation. Cost and expenditure data for student transportation facilities, equipment, and staff must be maintained. LEAs will be required to provide any or all of the following information to the DOE:

1. an annual report of publicly and privately owned buses, including names of drivers, vehicle data, number of daily trips, number of students, number of daily miles, and costs. Reporting forms or formats for electronic transmission of data will be provided by the DOE;
2. record of contract owners who are covered by applicable frozen mileage statutes (see Section 1703);
3. frozen mileage reports that indicate the route mileage approved by the LEA authority at the time the school bus is placed into service. Use of the school bus purchase form is required;
4. Records of all school buses bought and sold to public school bus drivers and/or LEAs must be maintained by the LEA.

E. School Bus Maintenance Records. Accurate maintenance records must be kept for all school buses, including those of contract drivers.

F. Certification of Passenger Instruction. Documentation and verification of Passenger Instruction must be maintained by the LEA.

G. School Bus Student Behavior Report. All school bus drivers are required to report student behavior problems on the school bus. All LEAs must make the School Bus Behavior Report available to all school bus drivers. Drivers must use the official Student Behavior Report Form to report inappropriate student behavior while on the school bus.

H. School Bus Accident Information. Statistical data and reports on all bus-related accidents must be maintained by the local transportation supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:1480 (July 2010).

### §2903. Uniform School Bus Accident Reporting Procedures

A. All school bus accidents, no matter how minor, shall be reported by the bus driver to the local supervisor of transportation, who shall ensure that all appropriate reporting procedures are followed. This reporting requirement applies to students who are injured while on board the bus, even if the bus is not in a collision or a near-collision. (Such accidents are called "on-board" accidents.) It applies whether or not bus passengers are injured or the bus is damaged as a result of the accident.

B. The uniform school bus accident report form shall be completed whether passengers are on board or not if the accident involves property damage, personal injury or fatality to:

1. occupants in the bus (driver, students, other passengers);
2. occupants of any other vehicle(s) involved in the accident; and
3. non-occupants of the school bus or other vehicle (e.g., student in the loading/unloading zone, pedestrian, bystander).

C. The school bus driver shall complete the form and submit it to the appropriate LEA authority for additional procedures. A written report of each accident must be maintained in the LEA. A written report of each accident shall be available upon request by the DOE or other reporting agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:847 (May 1999), amended LR 36:1481 (July 2010).

### Chapter 31. Appendix §3101. Definitions

*Accident*—any incident in which a school bus is involved that results in death, personal injury, and/or property damage, regardless of who was responsible. This applies whether the school bus was in motion, temporarily stopped, parked, being loaded, or unloaded and on public or private property.

*Accident Reporting Form*—form used to report the occurrence of any incident which involves death, personal injury and/or property damage regardless of who was responsible. This applies whether the school bus was in motion, temporarily stopped parked, being loaded, or unloaded and on public or private property. Use of the form promotes the compilation of accurate, uniform, and reliable information about school bus accidents so that problems and trends can be identified and effective safety programs can be developed.

*Activity Bus Driver*—a person meeting all licensing requirements and local, state and federal regulations to operate a vehicle used to transport students to and from school-related activities or on an "as-need" basis for the LEA.

*Alternately Flashing Signal Lamps*—a system of red or red and amber signal lamps mounted horizontally both front and rear, intended to identify a vehicle as a school bus and to inform other users of the highway that the bus is about to stop or is stopped to load or unload children.

*Attendant (Aide)*—a person assigned to assist one or more individual student(s) on a school bus or school vehicle.

*BESE*—Board of Elementary and Secondary Education.

*Body Fluids Cleanup Kit*—package of materials including, but not limited to, latex gloves, disposal bag, and absorbent material, used to clean up spills of potentially infected bodily fluids, under OSHA's Bloodborne Pathogens regulations and Universal Precautions practice.

*Cancellation*—a driver's license is annulled because of some error or defect or because the licensee is no longer entitled to such license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after such cancellation.

*CFR*—Code of Federal Regulations.

*Commercial Driver's License (CDL)*—the license required to operate a commercial motor vehicle.

*Commercial Motor Vehicle*—a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle meets one of the following requirements:

1. has a gross combination weight rating of twenty-six thousand one or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds;
2. has a gross vehicle weight rating of twenty-six thousand one or more pounds;
3. is designed to transport sixteen or more passengers, including the driver.

*Controlled-Access Highway*—every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

*Convicted or Conviction*—includes the entry of a plea of guilty or nolo contendere to a felony offense.

*Criminal Record Check*—the investigation of a person's criminal history through submission of fingerprints to state and/or federal authorities; also known as background check.

*Crossing Control Arm*—a device attached to the front bumper of a school bus that is activated during loading and unloading and designed to force the students to walk far enough away from the front of the bus to be seen by the driver.

*Cross-Walk*—

1. part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in absence of curbs, from the edges of the traversable roadway;

2. any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

*Dealer*—any person who is engaged in the sale and distribution of new motor vehicles or motor vehicle equipment.

*DOE*—Department of Education.

*Divided Highway*—any highway divided into roadways by a median, physical barrier, or clearly indicated dividing section so constructed as to impede vehicular traffic.

*Driver*—every person who drives or is in actual physical control of a vehicle.

*Driver's License or License*—any license secured from the Department of Public Safety and Corrections, Office of Motor Vehicles, in accordance with this Chapter to operate a motor vehicle on the highways of this state.

*Emergency Evacuation Drill Verification Form (Form T-8)*—form used to verify that emergency drill procedures have been taught to passengers and emergency drills were conducted. The form must be completed at the beginning of each semester and submitted to the district transportation office.

*Employee Notification Form*—form used by a school bus driver to report his/her non-compliance with provisions of the Commercial Motor Vehicle Safety Act of 1986.

*Federal Motor Vehicle Safety Standards (FMVSS)*—49 CFR 571, the regulations to which manufacturers of motor vehicles and equipment items must conform and certify compliance. These federal safety standards are regulations written in terms of minimum safety performance requirements.

*Gross Weight*—the weight of a vehicle and/or combination of vehicles without load on all axles including the steering axle plus the weight of any load thereon.

*Highway*—the entire width between the boundary lines of every way or place of whatever nature publicly maintained and open to the use of the public for the purpose of vehicular travel, including bridges, causeways, tunnels and ferries; synonymous with the word "street".

*Intersection*—

1. the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict;

2. where a highway includes two highways thirty feet or more apart, then every crossing of each highway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two highways thirty feet or more apart, then every crossing of two highways of such highways shall be regarded as a separate intersection;

3. the junction of an alley with a street or highway shall not constitute an intersection.

*Interstate Highway*—a fully controlled access highway which is a part of the National System of Interstate and Defense Highways.

*Laned Roadway or Highway*—a roadway or highway which is divided into two or more clearly marked lanes for vehicular traffic.

*Length*—the total longitudinal dimension of a single vehicle, a trailer, or a semi-trailer. Length of a trailer or semi-trailer is measured from the front of the cargo-carrying unit to its rear and includes load-holding devices thereon.

*Load*—a weight or quantity of anything resting upon something else regarded as its support.

*Loading Zone*—any area where students are boarding or leaving a school bus.

*Manufacturer*—any person engaged in the manufacturing or assembling of motor vehicles or items of motor vehicle equipment, including any person importing motor vehicle equipment for resale.

*Motor Carrier*—any person owning, controlling, managing, operating, or causing to be used or operated any commercial motor vehicle used in the transportation of persons or property over the public highways of this state.

*Motor Vehicle*—every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, but excluding a motorized bicycle. *Motor vehicle* shall also include a "low-speed vehicle" which is a four-wheeled, electric-powered vehicle with a maximum speed of not less than twenty miles per hour but not more than twenty-five miles per hour and is equipped with the minimum motor vehicle equipment appropriate for vehicle safety as required in 49 CFR 571.500.

*Multiple-Lane Highway*—any highway with two or more clearly marked lanes for traffic in each direction.

*NHTSA (National Highway Traffic Safety Administration)*—the agency of the Executive branch of the United States Department of Transportation charged with writing and enforcing safety, theft resistance, and fuel economy standards for motor vehicles.

*Operator*—any person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

*Owner*—a person who holds a legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale, lease, or transfer of possession thereof with the right of purchase upon the performance of the conditions stated in the agreement, with the right of immediate possession in the vendee, lessee, or possessor.

*Park or Parking*—the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

*Parking Area*—an area used by the public as a means of access to and egress from, and for the free parking of motor vehicles by patrons of a shopping center, business, factory, hospital, institution, or similar building or location.

*Pedestrian*—any person afoot.

*Power Lift*—a mechanized platform designed to provide access to a vehicle for an occupied mobility aid/wheelchair; also known as a wheelchair lift.

*Private Road or Driveway*—every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

*Railroad*—a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

*Railroad Crossing*—the intersection of a highway, street or roadway and railroad tracks.

*Railroad Sign or Signal*—any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

*Residence District*—the territory contiguous to a highway not comprising a business district, when the frontage on such a highway for a distance of three hundred feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

*Revocation*—the driver's license to drive a motor vehicle on the highways is terminated and shall not be renewed, except that an application for a new license may be presented and acted upon by the Department of Public Safety and Corrections, Office of Motor Vehicles, after the expiration of at least one year after revocation.

*Right of Way*—the privilege of the immediate use of the highway.

*Roadway*—that portion of a highway improved, designed, or ordinarily used for vehicular traffic, exclusive of the berm or shoulder. A divided highway has two or more roadways.

*Route*—the term shall apply to the combined total daily trips regularly assigned to the bus driver.

*Safe Riding Practices Classroom Instruction Form (Form T-7)*—form used to verify that all students in a school have received instruction on safe school bus riding practices.

*Safety Zone*—the area or space officially set apart within a highway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

*School Bus*—

federal definition—school bus means a passenger motor vehicle designed to carry a driver and more than 10 passengers, which the Secretary of Transportation decides is likely to be used significantly to transport preprimary, primary, and secondary students to or from school or an event related to school;

state definition—every motor vehicle that complies with the color, equipment, and identification requirements required by law and is used to transport children to and from school or in connection with school activities, but not including buses operated by common carriers in urban transportation of school children.

a. "Type I school bus" means any school bus designed to carry more than sixteen students at one time.

b. "Type II school bus" means any school bus designed to carry sixteen or less students at one time.

*School Bus Behavior Report Form*—form used to inform parents/guardians of behavioral incidents on the school bus and subsequent disciplinary action taken by school officials. The form requires signature of the principal and allows for comment from the student and/or parent/guardian

*School Bus Driver*—the employee or contracted individual hired to operate a school bus over designated routes within an established time schedule, to transport students to and from school or school-related activities, perform daily inspections of a school bus and equipment; to fulfill requirements set by the LEA.

*School Bus Operator Certification Program*—the school bus driver certification program developed by the DOE and mandated by state law for all school bus drivers to be eligible to transport students to and from school or school-related activities.

*School Bus Purchase Form (Form T-10)*—form to be completed by the seller of any new or used school bus to verify the vehicle meets all Federal Motor Vehicles Safety Standards (FMVSS) and requirements set forth by the Louisiana Board of Elementary and Secondary Education.

*Seat Belt*—the manual restraint system installed by the manufacturer as required by Federal Motor Vehicle Standard No. 208 which became effective January 1, 1968.

*Shoulder*—the portion of the highway contiguous with the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface.

*Sidewalk*—that portion of a highway between the curb lines, or the lateral lines of a highway, and the adjacent property lines, intended for the use of pedestrians.

*Specially Equipped School Bus*—any school bus designed, equipped, or modified to accommodate students with disabilities.

*Special Route*—a route established for students with disabilities who cannot be transported by school buses or within the regular established school bus routing system, and must be transported in cars, vans, or other specially equipped vehicles.

*Stand or Standing*—the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

*State Maintained Highway*—any highway in this state which is contained in the state highway system as defined by law or which is maintained by the Department of Transportation and Development.

*Stop*—the complete cessation from movement.

*Street*—the entire width between the boundary lines of every way or place of whatever nature publicly maintained and open to the use of the public for the purpose of vehicular travel, including bridges, causeways, tunnels, and ferries; synonymous with the word "highway".

*Student and Family Verification Form*—form used to verify that parents/guardians have read and reviewed with their child the rules and regulations for students riding buses. The form requires signatures of parent/guardian and student. The completed form is made part of the student's permanent record.

*Suspension*—the driver's license to drive a motor vehicle on the highways is temporarily withdrawn during the period of such suspension.

*Tenured School Bus Driver*—a driver who has successfully completed the three-year probationary period.

*Through Highway*—every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right of way to vehicles on such through highway in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this Chapter.

*Traffic*—pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for purposes of travel.

*Traffic Control Device*—all signs, signals, markings, and devices, not inconsistent with this Chapter, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

*Traffic Control Signal*—a type of highway traffic signal, manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

*Transportation Vehicle*—include LEA owned school buses, independently owned school buses, or other approved vehicles used for transporting passengers to and from school and school-related activities.

*Trip*—that segment of a route in which passengers are picked up at the home bus stop and all passengers are discharged at the school destination, or visa versa.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:641 (April 1999), amended LR 36:1481 (July 2010).

**§3103. Calculating the Age of the School Bus**

A. Calculating the age of the school bus is to be made by excluding the calendar year and counting the preceding year as the first year and proceeding to count backwards.

B. For example, in 2009, a 2009 model would be zero years old. A 2004 model year school bus would be five years old.

C. The following chart serves as a guide.

Model Year	Calendar Years							
	2009	2010	2011	2012	2013	2014	2015	2016
2016								◆
2015							◆	1
2014						◆	1	2
2013					◆	1	2	3
2012				◆	1	2	3	4
2011			◆	1	2	3	4	5
2010		◆	1	2	3	4	5	6
2009	◆	1	2	3	4	5	6	7
2008	1	2	3	4	5	6	7	8
2007	2	3	4	5	6	7	8	9
2006	3	4	5	6	7	8	9	10
2005	4	5	6	7	8	9	10	11
2004	5	6	7	8	9	10	11	12
2003	6	7	8	9	10	11	12	13
2002	7	8	9	10	11	12	13	14
2001	8	9	10	11	12	13	14	15

Model Year	Calendar Years							
	2009	2010	2011	2012	2013	2014	2015	2016
2000	9	10	11	12	13	14	15	16
1999	10	11	12	13	14	15	16	17
1998	11	12	13	14	15	16	17	18
1997	12	13	14	15	16	17	18	19
1996	13	14	15	16	17	18	19	20
1995	14	15	16	17	18	19	20	21
1994	15	16	17	18	19	20	21	22
1993	16	17	18	19	20	21	22	23
1992	17	18	19	20	21	22	23	24
1991	18	19	20	21	22	23	24	25
1990	19	20	21	22	23	24	25	26
1989	20	21	22	23	24	25	26	27
1988	21	22	23	24	25	26	27	28
1987	22	23	24	25	26	27	28	29

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1484 (July 2010).

Jeanette Vosburg  
Executive Director

1007#042

## RULE

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction (LAC 28:CXV.Chapter 23)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2317, High Schools; §2318, The College and Career Diploma; §2319, The Career Diploma; §2341, English; §2347, Health Education; §2353, Mathematics; §2361, Science; and §2363, Social Studies. These revisions include the policy changes necessary for the implementation of the career diploma. These changes are the result of Acts 246 and 298 of the 2009 Louisiana legislative session. The changes also include additional requirements for students completing the Basic Core curriculum.

#### Title 28

#### EDUCATION

#### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 23. Curriculum and Instruction

#### §2317. High Schools

A. High schools shall adhere to the curricular and time requirements established by the DOE and approved by BESE.

B. Exceptional students shall be afforded meaningful opportunities to participate in all areas of study as determined by the IEP Team during the development of the IEP.

C. The basic unit of credit shall be the Carnegie unit.

D. The certificate of achievement is an exit document issued to a student with a disability after he or she has achieved certain competencies and has met certain

conditions. Refer to Bulletin 1706—*Regulations for the Implementation of the Children with Exceptionalities Act*.

E. A Louisiana state high school diploma cannot be denied to a student who meets the state minimum high school graduation requirements; however, in those instances in which BESE authorizes an LEA to impose more stringent academic requirements, a school system diploma may be denied.

F. Each school shall follow established procedures for special requirements for high school graduation to allow each to address individual differences of all students.

G. Prior to the beginning of the school year, students in the career diploma pathway may switch to the college and career diploma pathway provided they have the consent of their parent or guardian and meet one of the following requirements.

1. The student has met all the requirements for promotion to the ninth grade established by BESE and the LEA for the college and career diploma program.

2. If the student was promoted to the career diploma program without having passed the English language arts or mathematics component of the eighth grade LEAP test, then the student must meet one of the requirements below.

3. If the student scored *Unsatisfactory* on the English language arts component eighth grade LEAP test, the student must successfully pass the eighth grade LEAP placement test for English language arts or the English II end-of-course test.

4. If the student scored *Unsatisfactory* on the mathematics component eighth grade LEAP test, the student must successfully pass the eighth grade LEAP Placement test for math or the Algebra I End-of-Course Test.

H. Prior to the beginning of the school year, students in the college and career diploma pathway may switch to the career diploma pathway provided they meet the following requirement.

1. Every student who seeks to pursue a career diploma shall have the written permission of his/her parent or other legal guardian on the career diploma participation form after a consultation with the school guidance counselor or other school administrator. The student and parent must be informed of the advantages and disadvantages of the different diploma pathways. The signature of the student and parent or guardian indicates that a determination has been made that the pursuit of a career diploma is appropriate and

in the best interest of the student. The school principal shall also sign the form acknowledging that appropriate counseling has taken place.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:154; R.S. 17:1944; R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:1485 (July 2010).

### **§2318. The College and Career Diploma**

#### **A. Curriculum Requirements**

1. For incoming freshmen prior to 2008-2009, the 23 units required for graduation shall include 15 required units and 8 elective units; the elective units can be earned at technical colleges as provided in §2389.

2. For incoming freshmen in 2008-2009 and beyond, the 24 units required for graduation shall include 16 required units and 8 elective units for the Louisiana Basic Core Curriculum, or 21 required units and 3 elective units for the Louisiana Core 4 Curriculum; the elective units can be earned at technical colleges as provided in §2389. For incoming freshmen in 2010-2011, students completing the basic core curriculum must complete a career area of concentration to earn a high school diploma.

3. Beginning with incoming freshmen in 2008-2009, all ninth graders in the college and career diploma pathway will be enrolled in the Louisiana Core 4 Curriculum.

a. After the student has attended high school for a minimum of two years as determined by the school, the student and the student's parent, guardian, or custodian may request that the student be exempt from completing the Louisiana Core 4 Curriculum.

b. The following conditions shall be satisfied for consideration of the exemption of a student from completing the Louisiana Core 4 Curriculum.

i. The student, the student's parent, guardian, or custodian and the school counselor (or other staff member who assists students in course selection) shall meet to discuss the student's progress and determine what is in the student's best interest for the continuation of his educational pursuit and future educational plan.

ii. During the meeting, the student's parent, guardian, or custodian shall determine whether the student will achieve greater educational benefits by continuing the Louisiana Core 4 Curriculum or completing the Louisiana Basic Core Curriculum.

iii. The student's parent, guardian, or custodian shall sign and file with the school a written statement asserting their consent to the student graduating without completing the Louisiana Core 4 Curriculum and acknowledging that one consequence of not completing the Louisiana Core 4 Curriculum may be ineligibility to enroll in into a Louisiana four-year public college or university. The statement will then be approved upon the signature of the principal or the principal's designee.

iv. The student, the student's parent, guardian, or custodian and the school counselor (or other staff member who assists students in course selection) shall jointly revise the individual graduation plan.

c. The student in the Louisiana Basic Core Curriculum may return to the Louisiana Core 4 Curriculum, in consultation with the student's parent, guardian, or custodian and the school counselor (or other staff member who assists students in course selection).

d. After a student who is 18 years of age or older has attended high school for two years, as determined by the school, the student may request to be exempt from completing the Louisiana Core 4 Curriculum by satisfying the conditions cited in LAC 28:CXV.2318.A.3.b with the exception of the requirement for the participation of the parent, guardian, or custodian, given that the parent/guardian has been notified.

#### **B. Assessment Requirements**

1. For incoming freshmen prior to 2010-2011, students must pass the English language arts and mathematics components of the GEE or LEAP Alternate Assessment, Level 2 (LAA 2) and either the science or social studies portions of GEE or LAA 2. For students with disabilities who have passed two of the three required components of the GEE or LAA 2 and have exhausted all opportunities available through the end of the twelfth grade to pass the remaining required GEE or LAA 2 component, that GEE or LAA 2 component may be waived by the State Superintendent of Education if the Department of Education determines the student's disability significantly impacts his/her ability to pass the GEE or LAA 2 component.

a. Only students with disabilities eligible under IDEA who meet the LAA 2 participation criteria may take the LAA 2.

b. The English language arts and mathematics components of GEE or LAA 2 shall first be administered to students in the tenth grade.

c. The science and social studies components of the GEE or LAA 2 shall first be administered to students in the eleventh grade.

2. For incoming freshmen in 2010-2011 and beyond, students must meet the assessment requirements below to earn a standard diploma.

a. Students must pass three end-of-course tests in the following categories:

i. English II or English III;

ii. Algebra I or Geometry;

iii. Biology or American History.

b. For students with disabilities who have passed two of the three required End-of-Course Tests and have exhausted all opportunities available through the end of the twelfth grade to pass the remaining required end-of-course test, that end-of-course test may be waived by the State Superintendent of Education if the Department of Education determines the student's disability significantly impacts his/her ability to pass the end-of-course test.

3. Remediation and retake opportunities will be provided for students that do not pass the GEE or, LAA 2, or the end-of-course tests. Students shall be offered 50 hours of remediation each year in each content area they do not pass. Refer to Bulletin 1566—*Guidelines for Pupil Progression*, and the addendum to Bulletin 1566—*Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program, Regular School Year*.

4. Students may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

a. A maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has

scored at the *Unsatisfactory* achievement level on either the English language arts and/or the mathematics component(s) of the eighth grade LEAP provided the student

i. Successfully completed specially designed elective(s) for LEAP remediation;

ii. Scored at or above the *Basic* achievement level on those component(s) of the eighth grade LEAP for which the student previously scored at the *Unsatisfactory* achievement level.

5. Prior to or upon the student's entering the tenth grade, all LEAs shall notify each student and his/her parents or guardians of the requirement of passing GEE, LAA 2, or the end-of-course tests

a. Upon their entering a school system, students transferring to any high school of an LEA shall be notified by that system of the requirement of passing GEE, LAA 2, or the end-of-course tests.

**C. Minimum Course Requirements**

1. For incoming freshmen prior to 2008-2009, the minimum course requirements for graduation shall be the following.

<b>English</b>	<b>4 units</b>
Shall be English I, II, and III, in consecutive order; and English IV or Business English or Senior Applications in English.	
<b>Mathematics</b>	<b>3 units</b>
(Effective for incoming freshmen 2005-2006 and beyond.) All students must complete one of the following: Algebra I (1 unit); or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units); or Integrated Mathematics I (1 unit). The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials, and Discrete Mathematics. (Effective for incoming freshmen 1997-98 through 2004-2005) Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials, and Discrete Mathematics.	
<b>Science</b>	<b>3 units</b>
Shall be the following: 1 unit of Biology; 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I; 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, an additional course from the physical science cluster, or a locally initiated science elective; Students may not take both Integrated Science and Physical Science; Agriscience I is a prerequisite for Agriscience II and is an elective course.	

<b>Social Studies</b>	<b>3 units</b>
Shall be American History, 1/2 unit of Civics or AP American Government, 1/2 unit of Free Enterprise; and 1 of the following: World History, World Geography, Western Civilization, or AP European History.	
<b>Health Education</b>	<b>1/2 unit</b>
<b>Physical Education</b>	<b>1 1/2 units</b>
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
<b>Electives</b>	<b>8 units</b>
<b>TOTAL</b>	<b>23 units</b>

2. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana basic core curriculum, the minimum course requirements for graduation shall be the following.

<b>English</b>	<b>4 units</b>
Shall be English I, II, and III, and English IV or Senior Applications in English	
<b>Mathematics</b>	<b>4 units</b>
Algebra I (1 unit), Applied Algebra I (1 unit), or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) Geometry or Applied Geometry The remaining unit(s) shall come from the following: Algebra II, Financial Mathematics, Math Essentials, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally initiated elective approved by BESE as a math substitute.	
<b>Science</b>	<b>3 units</b>
Shall be the following: 1 unit of Biology; 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I; 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, an additional course from the physical science cluster, or a locally initiated elective approved by BESE as a science substitute. • Students may not take both Integrated Science and Physical Science • Agriscience I is a prerequisite for Agriscience II and is an elective course.	
<b>Social Studies</b>	<b>3 units</b>
Shall be American History, 1/2 unit of Civics or AP American Government, 1/2 unit of Free Enterprise; and 1 of the following: World History, World Geography, Western Civilization, or AP European History.	
<b>Health Education</b>	<b>1/2 unit</b>
JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.	
<b>Physical Education</b>	<b>1 1/2 units</b>
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
<b>Education for Careers or Journey to Careers*</b>	<b>1 unit</b>

<b>Electives</b>	<b>7 units</b>
Shall include the minimum courses required to complete a Career Area of Concentration*	
<b>TOTAL</b> *Take effect for incoming freshmen in 2010-2011 and beyond	<b>24 units</b>

3. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following.

<b>English</b>	<b>4 units</b>
Shall be English I, II, III, and English IV	
<b>Mathematics</b>	<b>4 units</b>
Algebra I, Applied Algebra I, or Algebra I-Pt. 2 Geometry or Applied Geometry Algebra II The remaining unit shall come from the following: Financial Mathematics, Math Essentials, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally-initiated elective approved by BESE as a math substitute.	
<b>Science</b>	<b>4 units</b>
Shall be the following: 1 unit of Biology; 1 unit of Chemistry; 2 units from the following courses: Physical Science, Integrated Science, Physics I, Physics of Technology I, Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, or a locally initiated elective approved by BESE as a science substitute. <ul style="list-style-type: none"> <li>• Students may not take both Integrated Science and Physical Science</li> <li>• Agriscience I is a prerequisite for Agriscience II and is an elective course.</li> </ul> A student completing a Career Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the fourth required science unit: Advanced Nutrition and Foods; Food Services II; Allied Health Services II; Dental Assistant II; Emergency Medical Technician-Basic (EMT-B); Health Science II; Medical Assistant II; Sports Medicine III; Advanced Electricity/Electronics; Process Technician II; ABC Electrical II; Computer Service Technology II; Horticulture II; Networking Basics; Routers and Routing Basics; Switching Basics and Intermediate Routing; WAN Technologies; Animal Science; Biotechnology in Agriscience; Environmental Studies in Agriscience; Equine Science; Forestry; Horticulture; Small Animal Care/Management; Veterinary Assistant; Oracle Academy Course: DB Programming with PL/SQL.	
<b>Social Studies</b>	<b>4 units</b>
Shall be the following: 1/2 unit of Civics or AP American Government; 1/2 unit of Free Enterprise; 1 unit of American History; 1 unit from the following: World History, World Geography, Western Civilization, or AP European History;	

1 unit from the following: World History, World Geography, Western Civilization, AP European History, Law Studies, Psychology, Sociology, Civics (second semester—1/2 credit) or African American Studies. NOTE: Students may take two half credit courses for the fourth required social studies unit. A student completing a Career and Technical Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the fourth required social studies unit: Advanced Child Development; Early Childhood Education II; Family and Consumer Sciences II; ProStart II; T & I Cooperative Education (TICE); Cooperative Agriculture Education; Administrative Support Occupations; Business Communication; Cooperative Office Education; Entrepreneurship – Business; Lodging Management II; Advertising and Sales Promotion; Cooperative Marketing Education I; Entrepreneurship – Marketing; Marketing Management; Marketing Research; Principles of Marketing II; Retail Marketing; Tourism Marketing; CTE Internship; General Cooperative Education II; STAR II.	
<b>Health Education</b>	<b>1/2 unit</b>
JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.	
<b>Physical Education</b>	<b>1 1/2 units</b>
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of four units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
<b>Foreign Language</b>	<b>2 units</b>
Shall be 2 units in the same foreign language or 2 Speech courses	
<b>Arts</b>	<b>1 unit</b>
1 unit Fine Arts Survey or 1 unit of Art (§2333), Dance (§2337), Music (§2355), Theatre Arts (§2333), or Applied Arts. A student completing a Career and Technical Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's area of concentration for the required applied arts unit: Advanced Clothing and Textiles; ABC Carpentry II TE; ABC Electrical II TE; ABC Welding Technology II; Advanced Metal Technology; Advanced Technical Drafting; Architectural Drafting; ABC Carpentry II - T&I; ABC Welding Technology II - T&I; Cabinetmaking II; Commercial Art II; Cosmetology II; Culinary Occupations II; Custom Sewing II; Graphic Arts II; Photography II; Television Production II; Upholstery II; Welding II; ABC Carpentry In Agriscience; ABC Electricity in Agriscience; ABC Welding Technology Agriscience; Agriscience Construction Technology; Agriscience Power Equipment; Floristry; Landscape Design and Construction; Introduction to Business Computer Applications;	

Accounting II; Business Computer Applications; Computer Multimedia Presentations; Desktop Publishing; Keyboarding Applications; Telecommunications; Web Design I and II; Word Processing; Digital Media II.	
<b>Electives</b>	<b>3 units</b>
<b>TOTAL</b>	<b>24 units</b>

#### 4. High School Area of Concentration

a. All high schools shall provide students the opportunity to complete an area of concentration with an academic focus and/or a career focus.

i. Incoming freshmen prior to 2008-2009 can complete an Academic Area of Concentration by completing the current course requirements for the Taylor Opportunity Program for Students (TOPS) Opportunity Award.

ii. Incoming freshmen in 2008-2009 and beyond can complete an Academic Area of Concentration by completing the course requirements for the LA Core 4 curriculum.

iii. To complete a career area of concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the area of concentration and two related elective credits, including one computer/technology course. Areas of concentration are identified in the career options reporting system with each LEA designating the Career and Technical Education areas of concentration offered in their school system each year. The following computer/technology courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics & Animation	1/2
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I, II	1 each

#### 5. Academic Endorsement

a. Graduating seniors who meet the requirements for a College and Career diploma and satisfy the following performance indicators shall be eligible for an academic endorsement to the College and Career diploma.

i. Students graduating prior to 2011-2012 shall complete an Academic Area of Concentration. Students graduating in 2011-2012 and beyond shall complete the following curriculum requirements.

<b>English</b>	<b>4 units</b>
English I, II, III, and IV	
<b>Mathematics</b>	<b>4 units</b>
Algebra I (1 unit) or Algebra I-Pt. 2 Geometry Algebra II The remaining unit shall come from the following: Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, or Discrete Mathematics	
<b>Science</b>	<b>4 units</b>
1 unit of Biology 1 unit of Chemistry 1 unit of advanced science from the following courses: Biology II, Chemistry II, Physics, or Physics II 1 additional science unit	
<b>Social Studies</b>	<b>4 units</b>
1/2 unit of Civics or AP American Government and Politics 1/2 unit of Free Enterprise 1 unit of American History 1 unit from the following: World History, World Geography, Western Civilization, or AP European History. 1 unit from the following: World History, World Geography, Western Civilization, AP European History, Economics, Law Studies, Psychology, Sociology, or African American Studies.	
<b>Health Education</b>	<b>1/2 unit</b>
JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.	
<b>Physical Education</b>	<b>1 1/2 units</b>
NOTE: The substitution of JROTC is permissible.	
<b>Foreign Language</b>	<b>2 units</b>
Shall be 2 units in the same foreign language	
<b>Arts</b>	<b>1 unit</b>
1 unit Fine Arts Survey or 1 unit of Art (§2333), Dance (§2337), Music (§2355), Theatre Arts (§2333), or Applied Arts.	
<b>Electives</b>	<b>3 units</b>
<b>TOTAL</b>	<b>24 units</b>

ii. Students shall pass all four components of GEE with a score of *Basic* or above, or one of the following combinations of scores with the English language arts score at *Basic* or above:

- (a). one *Approaching Basic*, one *Mastery* or *Advanced*, *Basic* or above in the remaining two; or
- (b). two *Approaching Basic*, two *Mastery* or above.

iii. Students shall complete one of the following requirements:

- (a). Senior Project;
- (b). one Carnegie unit in an AP course with a score of three or higher on the AP exam;
- (c). one Carnegie unit in an IB course with a score of four or higher on the IB exam; or
- (d). three college hours of non-remedial, credit in mathematics, social studies, science, foreign language, or English language arts.

iv. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award.

v. Students shall achieve an ACT Composite Score of at least 23 or the SAT equivalent.

#### 6. Career/Technical Endorsement

a. Students who meet the requirements for a college and career diploma and satisfy the following performance indicators shall be eligible for a career/technical endorsement to the college and career diploma.

i. Students graduating prior to 2011-2012 shall meet the current course requirements for the TOPS Opportunity Award or the TOPS Tech Award. Students graduating in 2010-2011 and beyond shall meet the course requirements for the Louisiana Core 4 Curriculum.

ii. Students shall complete the career area of concentration.

iii. Students graduating prior to 2009-2010 shall pass the English language arts, mathematics, science, and social studies components of the GEE 21 at the *Approaching Basic* level or above. Students graduating in 2009-2010 and beyond shall pass all four components of the GEE with a score of basic or above or one of the following combinations with the English language arts score at basic or above:

(a). one *Approaching Basic*, one *Mastery* or *Advanced*, and *Basic* or above in the remaining two;

(b). two *Approaching Basic*, two *Mastery* or above.

iv. Students shall complete a minimum of 90 work hours of work-based learning experience related to the student's area of concentration (as defined in the *LDE Diploma Endorsement Guidebook*) or senior project related to student's area of concentration with 20 hours of related work-based learning and mentoring and complete one of the following requirements:

(a). industry-based certification in student's area of concentration from the list of industry-based certifications approved by BESE; or

(b). three college hours in a career/technical area that articulate to a postsecondary institution, either by actually obtaining the credits and/or being waived from having to take such hours in student's area of concentration.

v. Students shall achieve a minimum GPA of 2.5.

vi. Students graduating prior to 2008-2009 shall achieve the current minimum ACT Composite Score (or SAT Equivalent) for the TOPS Opportunity Award or the TOPS Tech Award. Students graduating in 2008-2009 and beyond shall achieve a minimum ACT Composite Score (or SAT Equivalent) of 20 or the state ACT average (whichever is higher) or the Silver Level on the WorkKeys Assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010).

### §2319. The Career Diploma

#### A. Curriculum and Entrance Requirements

1. The 23 units required for the career diploma shall include 16 required academic credits and a sequence of 7 credits in career and technical education.

2. A student seeking to pursue a career diploma must meet one of the following conditions.

a. The student has met all the requirements for promotion to the ninth grade established by BESE and the LEA.

b. The student is at least 15 years of age or will attain the age of 15 during the next school year, scored at least the *Approaching Basic* level on the English language

arts or mathematics component of the eighth grade LEAP test, and meets the criteria established by the pupil progression plan of the LEA where the student is enrolled to enter the ninth grade for the purpose of pursuing a career diploma.

i. Prior to entering the ninth grade, such student must complete a summer LEAP remediation program and take the retest in the subject area of any component of the eighth grade LEAP test on which the student scores at the *Unsatisfactory* level. Any such student who fails to satisfactorily complete the LEAP summer remediation program or who scores *Unsatisfactory* on the mathematics or English language arts component of the eighth grade LEAP shall be required to successfully complete a remedial course for elective credit in the subject area of the component of the eighth grade LEAP test on which they scored at the *Unsatisfactory* level before pursuing other courses in the content area.

ii. The student must have achieved a minimum cumulative grade point average of 1.5 on a 4.0 scale for course work required for completion of the eighth grade.

iii. Acceptable Attendance Standards. Students must meet the state minimum attendance requirements to be eligible to receive grades.

iv. Acceptable Behavior Standards. Students must meet the behavior requirements in the pupil progression plan.

v. A student must participate in a dropout prevention and mentoring program approved by the BESE during his/her first year in high school. Acceptable programs include research based dropout prevention programs such as Jobs for America's Graduates Multi-Year Program, Graduation Coach Program, or the school district may submit a proven effective, research-based dropout prevention and mentoring program other than the two listed above to the DOE for approval by BESE. All programs must include the following components:

(a). an academic catch up component to address all the area(s) of student deficiency;

(b). an adult mentoring component with an emphasis on workforce awareness and readiness;

(c). a work awareness and work readiness skills component;

(d). a work-based learning component such as job shadowing/job exploration/paid internships.

3. Every student who seeks to pursue a career diploma shall have the written permission of his/her parent or other legal guardian on the career diploma participation form after a consultation with the school guidance counselor or other school administrator. The student and parent must be informed of the advantages and disadvantages of the different diploma pathways. The signature of the student and parent or guardian indicates that a determination has been made that the pursuit of a career diploma is appropriate and in the best interest of the student. The school principal shall also sign the form acknowledging that appropriate counseling has taken place.

#### B. Assessment Requirements

1. For incoming freshmen prior to 2010-2011, students must pass the English language arts and mathematics components of the GEE or LEAP Alternate Assessment, Level 2 (LAA 2) and either the science or social

studies portions of GEE or LAA 2. For students with disabilities who have passed two of the three required components of the GEE or LAA 2 and have exhausted all opportunities available through the end of the twelfth grade to pass the remaining required GEE or LAA 2 component, that GEE or LAA 2 component may be waived by the State Superintendent of Education if the Department of Education determines the student's disability significantly impacts his/her ability to pass the GEE or LAA 2 component.

a. Only students with disabilities eligible under IDEA who meet the LAA 2 participation criteria may take the LAA 2.

b. The English language arts and mathematics components of GEE or LAA 2 shall first be administered to students in the tenth grade.

c. The science and social studies components of the GEE or LAA 2 shall first be administered to students in the eleventh grade.

2. For incoming freshmen in 2010-2011 and beyond, students must meet the assessment requirements below to earn a high school diploma.

a. Students must pass three end-of-course tests in the following categories:

- i. English II or English III;
- ii. Algebra I or Geometry;
- iii. Biology or American History.

b. For students with disabilities who have passed two of the three required End-of-Course Tests and have exhausted all opportunities available through the end of the twelfth grade to pass the remaining required end-of-course test, that end-of-course test may be waived by the State Superintendent of Education if the Department of Education determines the student's disability significantly impacts his/her ability to pass the end-of-course test.

3. Remediation and retake opportunities will be provided for students who do not pass the GEE or, LAA 2 tests, or the end-of-course tests. Students shall be offered 50 hours of remediation each year in each content area they do not pass. Refer to Bulletin 1566—*Guidelines for Pupil Progression*.

4. Students may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

5. Prior to or upon the student's entering the ninth grade, all LEAs shall notify each student and his/her parents or guardians of the requirement of passing GEE, LAA 2, or the end-of-course tests.

a. Upon their entering a school system, students transferring to any high school of an LEA shall be notified by that system of the requirement of passing GEE, LAA 2, or the end-of-course tests.

### C. Minimum Course Requirements

1. The minimum course requirements for a career diploma shall be the following.

English	4 units
Shall be: English I; English II; The remaining unit shall come from the following: Technical Reading and Writing; Business English; Business Communications; Using Research in Careers (1/2 credit); American Literature (1/2 credit); Film in America (1/2 credit); English III; English IV; Senior Applications in English; a course developed by the LEA and approved by BESE.	
Mathematics	4 units
Shall be One of the following: Algebra I (1 unit); or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units); or Applied Algebra I (1 unit). The remaining units shall come from the following: Geometry or Applied Geometry; Technical Math; Medical Math; Applications in Statistics and Probability; Financial Math; Math Essentials; Algebra II; Advanced Math—Pre-Calculus; Discrete Mathematics; course(s) developed by the LEA and approved by BESE.	
Science	3 units
Shall be: Biology I; 1 unit from the following physical science cluster: Physical Science; Integrated Science; Chemistry I; ChemCom; Physics I; Physics of Technology I. The remaining unit shall come from the following: Food Science; Forensic Science; Allied Health Science; Basic Body Structure and Function; Basic Physics with Applications; Aerospace Science; Earth Science; Agriscience II; Physics of Technology II; Environmental Science; Anatomy and Physiology; Animal Science; Biotechnology in Agriculture; Environmental Studies in Agriculture; Health Science II; EMT—Basic; an additional course from the physical science cluster; course(s) developed by the LEA and approved by BESE.	
NOTE: Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course.	

<b>Social Studies</b>	<b>3 units</b>
Shall be: American History; 1/2 unit of Civics; 1/2 unit of Free Enterprise; The remaining unit shall come from the following: Child Psychology and Parenthood Education; Law Studies; Psychology; Sociology; World History; World Geography; Western Civilization; Economics; American Government; African American Studies; course developed by the LEA and approved by BESE.	
<b>Health Education</b>	<b>1/2 unit</b>
JROTC I and II may be used to meet the Health Education requirement. Refer to §2347.	
<b>Physical Education</b>	<b>1 1/2 units</b>
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
<b>Career/Technical Education</b>	<b>7 units</b>
Education for Careers or Journey to Careers Six credits required for a career Area of Concentration.	
<b>TOTAL</b>	<b>23 units</b>

2. To complete a career area of concentration for the career diploma, students shall meet the minimum requirements for graduation including four elective primary credits in the career major and two related elective credits, including one computer/technology course. Areas of concentration are identified in the career options reporting system with each LEA designating the career and technical education areas of concentration offered in their school system each year. The following computer/technology applications courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics & Animation	1/2
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I, II	1 each

3. Courses developed by the LEAs and submitted to BESE for approval as substitutes for core course

requirements must meet state content standards for the subject area at the ninth grade level or higher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.1et seq.; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1490 (July 2010).

**§2341. English**

A. English Requirements for the College and Career Diploma

1. Louisiana Core 4 Curriculum. Four units of English shall be required for graduation. They shall be English I, II, III, and IV.

2. Louisiana Basic Core Curriculum. For students completing the Basic Core Curriculum and for incoming freshmen prior to 2008-2009, four units of English shall be required for graduation. They shall be English I, II, and III, and English IV, or Business English (for incoming freshmen prior to 2008-2009), or Senior Applications in English.

3. The English course offerings for the college and career diploma shall be as follows.

Course Title(s)	Units
English I, II, III, and IV	1 each
Business English (for incoming freshmen prior to 2008-2009)	1
Senior Applications in English	1
Reading I (elective credit)	1
Reading II (elective credit)	1
English as a Second Language (ESL) I, II, III, and IV (elective credit)	1 each

B. English Requirements for the Career Diploma

1. For students completing the Career Diploma, four units of English shall be required for graduation. They shall be English I, English II, and two units from the following: Technical Reading and Writing, Business English, Business Communications, Using Research in Careers (1/2 credit), American Literature (1/2 credit), Film in America (1/2 credit), English III, English IV, Senior Applications in English, and courses developed by the LEA and approved by BESE.

2. The English course offerings for the Career Diploma shall be as follows.

Course Title(s)	Units
English I, II, III, and IV	1 each
Senior Applications in English	1
Technical Reading and Writing	1
Business English	1
Business Communications	1
Using Research in Careers	½ unit
American Literature	½ unit
Film in America	½ unit
Reading I (elective credit)	1
Reading II (elective credit)	1
English as a Second Language (ESL) I, II, III, and IV (elective credit)	1 each
Course(s) developed by the LEA and approved by BESE	1

C. Students who score at the *Unsatisfactory* achievement level on the English language arts component of grade eight LEAP shall pass a high school remedial course in that content area before enrolling any English course in the Secondary Program of Studies for English meeting graduation requirements.

D. Only students who have limited English proficiency are permitted to enroll in English as a Second Language (ESL) courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 33:2605 (December 2007), amended LR 36:1492 (July 2010).

**§2347. Health Education**

A. The health education course offerings shall be as follows.

Course Title(s)	Units
Health Education	1/2

B. Cardiopulmonary resuscitation (CPR) shall be taught.

C. Health Education shall include instruction in adoption awareness. Adoption awareness shall include instruction on the benefits of adoption for families wishing to add a child, for potential adoptees, and for persons who are pregnant or who have a child for whom they are unable to care.

D. Health Education shall include at least thirty minutes of age appropriate classroom instruction relative to the state's safe haven relinquishments law, Children's Code Articles 1149 through 1160, which provides a mechanism whereby any parent may relinquish the care of an infant who is not more than thirty days old to the state in safety and anonymity, and without fear of prosecution

E. JROTC I and II may be used to meet the Health Education requirement provided the following requirements are met.

1. A minimum of 2000 minutes of instructional time shall be devoted Health Education in JROTC I and in JROTC II. Students must take both JROTC I and JROTC II to meet the Health Education requirement.

2. All of the standards and GLEs for Health shall be covered in JROTC I and JROTC II.

3. JROTC I and JROTC II shall include instruction in CPR, adoption awareness and the safe haven relinquishments law as required by state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1493 (July 2010).

**§2353. Mathematics**

A. Mathematics Requirements for the College and Career Diploma

1. Louisiana Core 4 Curriculum. Four units of math shall be required for graduation. They shall be the following:

- a. one unit from the following courses: Algebra I, Applied Algebra I, or Algebra I-Pt. 2;
- b. Geometry or Applied Geometry;
- c. Algebra II;
- d. one unit from the following:
  - i. Financial Mathematics;
  - ii. Math Essentials;

- iii. Advanced Math—Pre-Calculus;
- iv. Advanced Math—Functions and Statistics;
- v. Pre-Calculus;
- vi. Calculus;
- vii. Probability and Statistics;
- viii. Discrete Mathematics; or
- ix. a locally-initiated elective approved by BESE as a math substitute.

2. Louisiana Basic Core Curriculum. Four units of math shall be required for graduation. They shall be the following:

- a. Algebra I (1 unit), Applied Algebra I (1 unit), or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units);
- b. Geometry;
- c. The remaining units shall come from the following:
  - i. Algebra II;
  - ii. Financial Mathematics;
  - iii. Math Essentials;
  - iv. Advanced Math-Pre-Calculus;
  - v. Advanced Math-Functions and Statistics;
  - vi. Pre-Calculus;
  - vii. Calculus;
  - viii. Probability and Statistics;
  - ix. Discrete Mathematics; or
  - x. a locally-initiated elective approved by BESE as a math substitute.

3. Effective for 2005-2006 to 2007-2008 incoming freshmen, three units of mathematics shall be required for graduation. All students must complete one of the following:

- a. Algebra I (1 unit); or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units); or
- b. Integrated Mathematics I (1 unit);
- c. the remaining unit(s) shall come from the following:
  - i. Integrated Mathematics II;
  - ii. Integrated Mathematics III;
  - iii. Geometry;
  - iv. Algebra II;
  - v. Financial Mathematics;
  - vi. Advanced Math-Pre-Calculus;
  - vii. Advanced Math-Functions and Statistics;
  - viii. Pre-Calculus;
  - ix. Calculus;
  - x. Probability and Statistics;
  - xi. Math Essentials; and
  - xii. Discrete Mathematics.

4. For incoming freshmen 1997-98 to 2004-2005, the three required mathematics courses shall be selected from the following courses and may include a maximum of two entry level courses (designated by E):

- a. Introductory Algebra/Geometry (E);
- b. Algebra I-Part 1 (E);
- c. Algebra I-Part 2;
- d. Integrated Mathematics I (E);
- e. Integrated Mathematics II;
- f. Integrated Mathematics III;
- g. Applied Mathematics I (E);
- h. Applied Mathematics II;
- i. Applied Mathematics III;
- j. Algebra I (E);
- k. Geometry;

- l. Algebra II;
- m. Financial Mathematics;
- n. Advanced Math-Pre-Calculus;
- o. Advanced Math-Functions and Statistics;
- p. Pre-Calculus;
- q. Calculus;
- r. Probability and Statistics;
- s. Math Essentials; and
- t. Discrete Mathematics.

5. The mathematics course offerings for the College and Career Diploma shall be as follows.

Course Title(s)	Units
Advanced Math—Pre-Calculus	1
Advanced Math—Functions and Statistics	1
Algebra I, II	1 each
Applied Algebra I	1
Algebra I—Part 1	1
Algebra I—Part 2	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	1
Geometry	1
Applied Geometry	1
Integrated Mathematics I, II, III	1 each
Pre-Calculus	1
Probability and Statistics	1
Math Essentials	1

**B. Mathematics Requirements for the Career Diploma**

1. For students completing the Career Diploma, four units of mathematics shall be required for graduation. They shall be the following:

- a. Algebra I (1 unit), Applied Algebra I (1 unit), or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units);
- b. The remaining units shall be from the following:
  - i. Technical Math;
  - ii. Medical Math;
  - iii. Applications in Statistics and Probability;
  - iv. Financial Math;
  - v. Math Essentials;
  - vi. Algebra II;
  - vii. Advanced Math—Pre-Calculus;
  - viii. Discrete Mathematics; or
  - ix. course(s) developed by the LEA and approved by BESE.

2. The mathematics course offerings for the Career Diploma shall be as follows.

Course Title(s)	Units
Algebra I	1
Algebra I—Part 1	1
Algebra I—Part 2	1
Applied Algebra I	1
Geometry	1
Applied Geometry	1
Financial Mathematics	1
Technical Math	1
Medical Math	1
Applications in Statistics and Probability	1
Algebra II	1
Advanced Math—Pre-Calculus	1
Discrete Mathematics	1
Math Essentials	1
Course(s) developed by the LEA and approved by BESE	1

C. Students who score at the unsatisfactory achievement level on the mathematics component of grade eight LEAP shall pass a high school remedial course in mathematics before enrolling in any course in the Secondary Program of Studies for Mathematics.

D. Financial Mathematics may be taught by teachers certified in Business Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:2605 (December 2007), LR 34:1609 (August 2008), LR 36:1493 (July 2010).

**§2361. Science**

A. Science Requirements for the College and Career Diploma

1. Louisiana Core 4 Curriculum. Four units of science are required. They shall be the following:

- a. 1 unit of Biology;
- b. 1 unit of Chemistry;
- c. 2 units from the following courses: Physical Science, Integrated Science, Physics I, Physics of Technology I, Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, or a locally initiated elective approved by BESE as a science substitute;

d. A student completing a Career Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the fourth required science unit:

- i. Advanced Nutrition and Foods;
- ii. Food Services II;
- iii. Allied Health Services II;
- iv. Dental Assistant II;
- v. Emergency Medical Technician-Basic (EMT-B);
- vi. Health Science II;
- vii. Medical Assistant II;
- viii. Sports Medicine III;
- ix. Advanced Electricity/Electronics;
- x. Process Technician II;
- xi. ABC Electrical II;
- xii. Computer Service Technology II;
- xiii. Horticulture II;
- xiv. Networking Basics;
- xv. Routers and Routing Basics;
- xvi. Switching Basics and Intermediate Routing;
- xvii. WAN Technologies;
- xviii. Animal Science;
- xix. Biotechnology in Agriscience;
- xx. Environmental Studies in Agriscience;
- xxi. Equine Science;
- xxii. Forestry;
- xxiii. Horticulture;
- xxiv. Small Animal Care/Management;
- xxv. Veterinary Assistant; and
- xxvi. Oracle Academy Course: DB Programming with PL/SQL.

2. Louisiana Basic Core Curriculum. For students completing the Basic Core Curriculum and for incoming freshmen prior to 2008-2009, three units of science shall be required for graduation. They shall be the following:

- a. 1 unit of Biology;
- b. 1 unit from the following physical science cluster:
  - i. Physical Science;
  - ii. Integrated Science;
  - iii. Chemistry I;
  - iv. Physics I;
  - v. Physics of Technology I;
- c. 1 unit from the following courses:
  - i. Aerospace Science;
  - ii. Biology II;
  - iii. Chemistry II;
  - iv. Earth Science;
  - v. Environmental Science;
  - vi. Physics II;
  - vii. Physics of Technology II;
  - viii. Agriscience II (See Subsection C below.);
  - ix. Anatomy and Physiology;
  - x. an additional course from the physical science cluster; or
  - xi. a locally initiated science elective approved by the DOE.

3. The science course offerings for the college and career diploma shall be as follows.

Course Title(s)	Units
Aerospace Science	1
Agriscience II	1
Anatomy and Physiology	1
Biology I, II	1 each
Chemistry I, II	1 each
Earth Science	1
Environmental Science	1
Integrated Science	1
Physical Science	1
Physics I, II	1 each
Physics of Technology I, II	1 each
Approved IBC-related courses for those students who meet the requirement	1 each

**B. Science Requirements for the Career Diploma**

1. For students completing the Career Diploma, three units of science shall be required for graduation. They shall be:

- a. 1 unit of Biology;
- b. 1 unit from the following physical science cluster:
  - i. Physical Science;
  - ii. Integrated Science;
  - iii. Chemistry I;
  - iv. ChemCom;
  - v. Physics I;
  - vi. Physics of Technology I;
- c. the remaining unit shall come from the following:
  - i. Food Science;
  - ii. Forensic Science;
  - iii. Allied Health Science;
  - iv. Basic Body Structure and Function;
  - v. Basic Physics with Applications;

- vi. Aerospace Science;
- vii. Earth Science;
- viii. Agriscience II;
- ix. Physics of Technology II;
- x. Environmental Science;
- xi. Anatomy and Physiology;
- xii. Animal Science;
- xiii. Biotechnology in Agriculture;
- xiv. Environmental Studies in Agriculture;
- xv. Health Science II;
- xvi. EMT—Basic;
- xv. an additional course from the physical science cluster;
- xvi. course(s) developed by the LEA and approved by BESE.

2. The science course offerings for the career diploma shall be as follows.

Course Title(s)	Units
Aerospace Science	1
Agriscience II	1
Anatomy and Physiology	1
Biology	1
Chemistry	1
Earth Science	1
Environmental Science	1
Integrated Science	1
Physical Science	1
Physics	1
Physics of Technology I, II	1 each
Food Science	1
Forensic Science	1
Allied Health Science	1
Basic Body Structure and Function	1
Basic Physics with Applications	1
Animal Science	1
Biotechnology in Agriculture	1
Environmental Studies in Agriculture	1
Health Science II	1
EMT—Basic	1
Course(s) developed by the LEA and approved by BESE	1 each

C. Students may not take both Integrated Science and Physical Science.

D. Agriscience I is a prerequisite for Agriscience II and is an elective course.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 31:1297 (June 2005), amended LR 33:2605 (December 2007), amended LR 36:1494 (July 2010).

**§2363. Social Studies**

**A. Social Studies Requirements for the College and Career Diploma**

1. Louisiana Core 4 Curriculum. Four units of social studies are required. They shall be American History, 1/2 unit of Civics or AP American Government, 1/2 unit of Free Enterprise; one of the following: World History, World Geography, Western Civilization, or AP European History; and one additional social studies course.

- a. A student completing a Career Area of Concentration may substitute one of the following BESE/Board of Regents approved IBC-related course from

within the student's Area of Concentration for the fourth required social studies unit:

- i. Advanced Child Development;
- ii. Early Childhood Education II;
- iii. Family and Consumer Sciences II;
- iv. ProStart II;
- v. T and I Cooperative Education (TICE);
- vi. Cooperative Agriculture Education;
- vii. Administrative Support Occupations;
- viii. Business Communication, Cooperative Office

Education;

- ix. Entrepreneurship – Business;
- x. Lodging Management II;
- xi. Advertising and Sales Promotion;
- xii. Cooperative Marketing Education I;
- xiii. Entrepreneurship – Marketing;
- xiv. Marketing Management;
- xv. Marketing Research;
- xvi. Principles of Marketing II;
- xvii. Retail Marketing;
- xviii. Tourism Marketing;
- xix. CTE Internship;
- xx. General Cooperative Education II; and
- xxi. STAR II.

2. Louisiana Basic Core Curriculum. For students completing the basic core curriculum and for incoming freshmen prior to 2008-2009, three units of social studies shall be required for graduation. They shall be American History, 1/2 unit of Civics or AP American Government, 1/2 unit of Free Enterprise; and one of the following: World History, World Geography, Western Civilization, or AP European History.

3. The social studies course offerings for the college and career diploma shall be as follows.

Course Title(s)	Units
American Government	1
American History	1
Civics	1
Economics	1
Free Enterprise	1/2
Law Studies	1
Psychology	1
Sociology	1
AP European History	1
African American Studies	1
Approve IBC-related courses for those students who meet the requirement	1 each

**B. Social Studies Requirements for the Career Diploma**

1. For students completing the Career Diploma, three units of social studies shall be required for graduation. They shall be American History, 1/2 unit of Civics, 1/2 unit of Free Enterprise; and one additional social studies course.

2. The social studies course offerings for the career diploma shall be as follows.

Course Title(s)	Units
American Government	1
American History	1
Civics	1
Economics	1
Free Enterprise	1/2
Law Studies	1
Psychology	1

Sociology	1
African American Studies	1
Child Psychology and Parenthood Education	1
Course(s) developed by the LEA and approved by BESE	1

C. Economics may be taught by a teacher certified in business education.

D. Free Enterprise shall include instruction in personal finance. Such instruction shall include but shall not be limited to the following components:

1. income;
2. money management;
3. spending and credit;
4. savings and investing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:274-274.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 31:3072 (December 2005), LR 33:431 (March 2007), LR 33:2606 (December 2007), amended LR 36:1495 (July 2010).

Jeanette Vosburg  
Executive Director

1007#040

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—General Career and Technical Education (LAC 28:CXV.2377)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2377, General Career and Technical Education. The amendment adds a new course offering, Consumer Finance and Banking, as a 1-credit course. The action is being proposed to update Career and Technical course offerings. In updating these course offerings our Career and Technical program of studies will provide the opportunity for students to participate in training that will give them an understanding of banking services.

**Title 28**

**EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

**Chapter 23. Curriculum and Instruction**

**§2377. General Career and Technical Education**

A. General Career and Technical Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
CTE Internship I	11-12	1
CTE Internship II	12	1
CTE Internship I	11-12	2
CTE Internship II	12	2
Consumer Finance and Banking	12	1
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3

Course Title(s)	Recommended Grade Level	Units
Education for Careers	9-12	1/2 -1
Advanced Television Broadcasting I	10-12	1-3
Advanced Television Broadcasting II	11-12	1-3
Digital Media I	10-12	1-3
Digital Media II	11-12	1-3
STAR I	11-12	1
STAR II	12	1
Entrepreneurship	11-12	1
Journey to Careers	9	1/2-1
Oracle Internet Academy		
Database Design and Programming	11-12	1
Java Programming	11-12	1
Database Programming with PL/SQL	11-12	1
Finance Academy		
Business Economics	11-12	1/2
Financial Services	11-12	1/2
Financial Planning	11-12	1/2
Ethics in Business	11-12	1/2
Insurance	11-12	1/2
Business in a Global Economy	11-12	1/2
Principles of Finance	11-12	1/2 – 1
Principles of Accounting	11-12	1/2
Managerial Accounting	11-12	1/2
Advanced Finance	11-12	1/2
Hospitality and Tourism Academy		
Principles of Hospitality and Tourism	11-12	1/2
Customer Service	11-12	1/2
Sports Entertainment and Event Management	11-12	1/2
Geography and World Cultures	11-12	1/2
Sustainable Tourism	11-12	1/2
Hospitality Marketing	11-12	1/2
Information Technology Academy		
Principles of Information Technology	11-12	1/2
Computer Networking	11-12	1/2
Web Design	11-12	1/2
Databases Design	11-12	1/2
Computer Systems	11-12	1/2
Introduction to Programming	11-12	1/2
Digital Video	11-12	1/2

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 32:546 (April 2006), LR 32:1415 (August 2006) LR 33:278 (February 2007), LR 33:2050 (October 2007), LR 34:1386 (July 2008), LR 34:2558 (December 2008), LR 35:1229 (July 2009), LR 35:2319 (November 2009), LR 35:2748 (December 2009), LR 36:1496 (July 2010).

Jeanette Vosburg  
Executive Director

1007#039

## RULE

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Health Education  
(LAC 28:CXV.2347)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741—*Louisiana Handbook for School Administrators*: §2347. Health Education. The policy change is the result of Act 284 of the 2009 Regular Session of the Legislature which requires each city, parish, or other local public school board provide each school year to high school students enrolled in Health Education at least 30 minutes of age and grade appropriate classroom instruction relative to the state's safe haven relinquishments law, Children's Code Articles 1149 through 1160, which provides a mechanism whereby any parent may relinquish the care of an infant who is not more than 30 days old to the state in safety and anonymity and without fear of prosecution.

#### Title 28

#### EDUCATION

#### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 23. Curriculum and Instruction

#### §2347. Health Education

A. - C. ...

D. Each city, parish, or other local public school board shall provide each school year to high school students enrolled in Health Education at least thirty minutes of age and grade appropriate classroom instruction relative to the state's safe haven relinquishments law, Children's Code Articles 1149 through 1160, which provides a mechanism whereby any parent may relinquish the care of an infant who is not more than thirty days old to the state in safety and anonymity and without fear of prosecution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:817 (May 2007), LR 36:1497 (July 2010).

Jeanette Vosburg  
Executive Director

1007#036

## RULE

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Individual Graduation Plan  
(LAC 28:CXV.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook*

for School Administrators: §901, Scheduling. This revision changes the name of the Five Year Plan to the Individual Graduation Plan as required by Act 257 of the 2009 Louisiana Legislative Session.

**Title 28  
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for  
School Administrators**

**Chapter 9. Scheduling**

**§901. Scheduling**

A. The purpose of scheduling within available time frames and staff resources shall be to meet the educational needs of students.

1. A copy of the daily/weekly schedule of work providing for all subject areas in the curriculum shall be on file in the principal's office and shall be posted at all times.

B. Prior to student scheduling each year, each middle, junior, or high school shall provide the parent/guardian/legal custodian with a listing of course offerings, the content of each, and high school graduation requirements where appropriate.

1. By the end of the eighth grade, each student shall develop, with the input of his family, an individual graduation plan. Such a plan shall include a sequence of courses that is consistent with the student's stated goals for one year after graduation.

2. Each student's individual graduation plan shall be reviewed annually thereafter by the student, parents, and school advisor and revised as needed.

3. Every middle, junior, or high school shall require that the parent/guardian/legal custodian sign his/her child's schedule form and the individual graduation plan for students in grades 8-12.

C. Student scheduling shall be individually appropriate and flexible to allow entry into and exit from courses and course sequences that are available for meeting curricular requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:175; R.S. 17:183.2; R.S. 17:391.13; R.S. 17:401.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 36:1498 (July 2010).

Jeanette Vosburg  
Executive Director

1007#037

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Unsafe Schools (LAC 28: CXV.343)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §343, Unsafe Schools. The revisions provide for use of the “year-end cumulative student count” in determining a school’s status as persistently dangerous. The proposed policy will result in a more accurate count of student enrollment than current policy which utilizes the “October 1<sup>st</sup> student count.”

**Title 28**

**EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for  
School Administrators**

**Chapter 3. Operation and Administration**

**§343. Unsafe Schools**

A. - B.4. ...

5. Schools must meet two of the following criteria for two consecutive school years to be identified as persistently dangerous. For purposes of these criteria, enrolled student body means the year-end cumulative student enrollment count, and firearm means a firearm as defined by the federal Gun-Free Schools Act.

a. One percent or more of the enrolled student body is expelled for possession of a firearm on school property, on a school bus, or for actual possession of a firearm at a school-sponsored event.

b. Four percent or more of the enrolled student body has been expelled for a crime of violence as defined by R.S. 14:2 occurring on school property, on a school bus or at a school-sponsored event.

B.5.c. - C. ...

AUTHORITY NOTE: Promulgated in accordance with 20 USCS 7912.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1263 (June 2005), amended LR 36:1498 (July 2010).

Jeanette Vosburg  
Executive Director

1007#038

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Assessment Requirements for a State Diploma (LAC 28:LXXIX.2111)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Nonpublic Bulletin 741—*Louisiana Handbook for Nonpublic School Administrators*: §2111, Assessment Requirements for a State Diploma. This revision requires nonpublic schools awarding a state diploma to switch from the Graduation Exit Exam to the End-of-Course Tests as the assessment requirement for graduation. This change begins with the ninth grade class of 2010-2011. This policy revision is intended to help prevent dropouts and assist in helping students graduate on time.

**Title 28**

**EDUCATION**

**Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana  
Handbook for Nonpublic School  
Administrators—Programs of Study**

**Chapter 21. Curriculum and Instruction**

**Subchapter C. Secondary Schools**

**§2111. Assessment Requirements for a State Diploma**

A. Any approved nonpublic school may award a school diploma to any student who meets the state minimum high school graduation requirements.

B.1. Any approved nonpublic school that participates in the state Exit Testing Program shall award a state and/or school diploma to a student who successfully completes the state's minimum graduation requirements and meets the assessment requirements below.

a. Students entering the ninth grade prior to 2010-2011 must pass the English Language Arts and Mathematics components, and either the Science or Social Studies component of the Graduation Exit Examination.

b. For incoming freshmen in 2010-2011 and beyond, students must pass three End-of-Course Tests in the following categories:

- i. English II or English III;
- ii. Algebra I or Geometry;
- iii. Biology or American History.

2. A student who attends a school that opts to participate in the state Exit Testing Program but who does not successfully complete the state's minimum graduation requirements and meet the assessment requirements shall not be eligible for either a state or a school diploma.

C.1. Any state-approved nonpublic school that wishes to award the state diploma to its students shall contact the state department for time lines and other administrative guidelines for administering the State Exit Testing Program.

2. Any nonpublic school that opts to participate in the state Exit Testing Program shall follow rules and regulations set by the State Board of Elementary and Secondary Education.

D. Any approved nonpublic school that does not choose to participate in the state Exit Testing Program may grant a school diploma, which shall carry the same privileges as one issued by a state-approved public school.

E. The awarding of high school diplomas shall in no way effect the school approval classifications of any school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 31:636 (March 2005), LR 31:3082 (December 2005), LR 36:1498 (July 2010).

Jeanette Vosburg  
Executive Director

1007#041

## RULE

### Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Regulations for Students with Disabilities

(LAC 28:XLIII.151, 152, 153, 160, 230, 301, 512, 601, 603, 607, 705, 802, 803, and 905)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 1706—*Regulations for Implementation of the Children with Exceptionalities Act*, Subpart 1, Regulations for Students with Disabilities. The Rule formally aligns the state special education regulations to conform to the supplemental regulations of IDEA (Individuals with Disabilities Act) 2008 and Act 303 of the

2009 Louisiana Legislature. The bulletin provides Louisiana educators, education administrators, and parents with current policies and procedures related to the provision of special education services for students with disabilities.

## Title 28

### EDUCATION

#### Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act—Regulations for Students with Disabilities

##### Chapter 1. State Eligibility

##### Subchapter J. State Complaint Procedures

##### §151. Adoption of State Complaint Procedures and Early Resolution Program

A. General. The LDE adopts written procedures herein and in Bulletin 1573—*Complaint Management Procedures*, for:

1. the purpose of resolving any complaint alleging that a public agency has violated a requirement of Part B of the Act, including a complaint filed by an organization or individual from another state, that meets the requirements of §§151 through 153 by providing:

a. for the implementation of an early resolution process (ERP); and/or

b. the filing of a formal written complaint with the LDE.

B. The LDE shall widely disseminate to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities:

1. the state procedures under §§151 through 153 and Bulletin 1573—*Complaint Management Procedures*; and

2. the appropriate contact information for LEAs and other public agencies serving students.

C. Informal Complaints. It is the policy of the LDE to encourage and support prompt and effective resolution of any complaint described in §151.A.1 in the least adversarial manner possible. The LDE shall effect such policy to promote dispute prevention and the swift resolution of disputes by implementing an early resolution process.

1. Early Resolution Process (ERP)—an ongoing and systematic, informal dispute resolution process.

a. ERP shall include a systematic, local level process for the prompt and orderly resolution of complaints by each public educational agency, including public charter schools.

b. Each LEA in the state shall establish an internal ERP in accordance with standards outlined in Bulletin 1573—*Complaint Management Procedures*, which shall include:

i. the designation of a local ERP representative and notice of the name, address, telephone number; and

ii. other contact information for the LEA's designated ERP representative.

c. The implementation of the ERP by each LEA draws on the traditional model of parents and schools working cooperatively in the educational interest of the student to achieve their shared goal of meeting the educational needs of students with disabilities.

d. To promote the cooperative resolution of complaints at the local level, the LDE shall not be involved in the informal resolution process (ERP) implemented at the local level, but shall route to the public agency's ERP

representative, verbal and other informal complaints or allegations received by the LDE.

2. Requesting ERP. A parent, adult student, individual, or organization shall initiate a request for ERP on one or more issues described in §151.A.1 by contacting the local level ERP representative or the LDE's ERP Intake Coordinator(s).

a. Informal complaints to the LDE shall only be made through the LDE's Intake Coordinator(s) who shall refer the complaint to the ERP representative of the LEA immediately, if possible, but not later than two calendar days after receiving the complaint.

b. The LDE's Intake Coordinator(s) shall:

i. be the LDE's only designated individual(s) to perform complaint intake duties and responsibilities;

ii. not have a *juris doctorate* degree;

iii. have completed specific training in accepted methods and practices for recording information in a neutral and confidential manner; and

iv. perform duties consisting of receipt of informal complaints and request for ERP; providing local agency ERP contact information to the complainant(s); and referral of such informal complaint or ERP request to the local agency's ERP Representative in accordance with Subsection C of this Section.

3. Early Resolution Period. If a resolution of the informal complaint cannot be achieved within 15 calendar days of the public agency's receipt of the complaint, or an extended period agreed upon by the parties in writing, the LEA's ERP representative shall advise the complainant of the availability of other dispute resolution processes available through the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36:1499 (July 2010).

### **§152. Formal Written Complaints Filing and Content Requirements**

A. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36:1500 (July 2010).

### **§153. Formal Written Complaint Procedures**

A. - I. 9. ...

10. Implementation of any corrective actions required in the state's initial (pre-reconsideration) decision shall not be delayed pending the reconsideration process.

J. - K.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36:1500 (July 2010).

### **Subchapter L. Additional Eligibility Requirements**

#### **§160. Participation in Assessments**

A. ...

B. Accommodation Guidelines

1. The LDE's guidelines for providing appropriate accommodations are established in Bulletin 118--*Statewide Assessment Standards and Practices*, for the provision of appropriate accommodations. In case of district-wide

assessment programs, the LEA shall establish those guidelines.

2. - 2.b. ...

C. Alternate Assessments

1. The LDE's guidelines to implement alternate assessments and guidelines for the participation of students with disabilities in alternate assessments for those students who cannot participate in regular assessments, even with accommodations, as indicated in their respective IEPs, as provided in Paragraph A of this Section, are detailed in Bulletin 1530--*Louisiana's IEP Handbook for Students with Exceptionalities*. In case of district-wide assessment programs, the LEA shall develop and implement those guidelines.

C.2. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36:1500 (July 2010).

### **Chapter 2. Local Educational Agency Eligibility**

#### **§230. LEA Jurisdiction**

A. Each LEA shall identify, locate, and evaluate each student suspected of having a disability (regardless of the severity of the disability), 3 through 21 years of age, residing within its jurisdiction.

B. Each LEA is responsible for making available a free appropriate public education to each eligible student with a disability, 3 through 21 years of age, who resides within its jurisdiction except those students enrolled by their parents in a private school program. This responsibility includes the provision and cost of any program on the continuum of services a student requires, including residential placement.

C. Each LEA is responsible for making available a free appropriate public education to each eligible student with a disability, 3 through 21 years of age, who are non-residents of the LEA but located within its jurisdiction for any reason, except for those students enrolled by their parents in a private school program. Funding for services for these students is established in this Section.

D. Jurisdiction is the right and obligation of an LEA to exercise authority over all students residing within its geographic area and over each student placed by the LEA in an educational program within the geographic area of another LEA or in an approved educational program out of the state.

1. For city/parish school systems, the geographic area is the boundary of the school district as defined in the Louisiana Revised Statutes.

2. For SSD, the geographic area is the boundary of the State-operated treatment and care residential facilities.

3. For a state board special school, the geographic area is the boundary of the educational facility.

4. For a charter school that is considered an LEA, the geographic area is the boundary of the educational facility.

5. If an LEA places a student in another LEA or an approved private school, the student so placed remains within the jurisdiction of the placing LEA. The responsibility for a FAPE remains with the placing LEA.

a. All students sent to a board special school by another LEA are considered "placed" by the sending LEA.

E. Students who are eligible to receive a free appropriate public education are described as follows.

1. LEAs shall make available a free public education to all students with disabilities located in their jurisdictions and reaching the age of three years, regardless of when the birthday occurs during the school year; an IEP shall be in effect by the student's third birthday. If a student's third birthday occurs during the summer, the student's IEP team shall determine the date when services under the IEP will begin. At the discretion of the LEA and with parental approval, a FAPE may be provided to an eligible student before age three years if his or her third birthday occurs during the school year.

2. A student with a disability shall remain eligible for services until reaching age 22 unless the student has graduated from high school with a regular high school diploma. A student with a disability whose twenty-second birthday occurs during the course of the regular school year (as defined by the LEA) may be allowed to remain in school for the remainder of the school year.

3. LEAs are required to make available a free appropriate public education to students expelled, suspended or otherwise removed from their current educational placements for more than 10 school days in a school year, in accordance with these regulations.

4. A student with a disability who needs special education and related services shall remain eligible even though he or she is advancing from grade to grade.

F. Funding for public school special education and related services as provided by an LEA shall be as follows.

1. Each LEA shall provide special education and related services to students with exceptionalities who are located within its geographical boundaries, including students who are placed in a private residential facility or an intermediate care facility for the developmentally disabled for any reason by any individual or agency; however, the LEA shall pay the cost of such services only for students who are residents within the geographical boundaries of the LEA. Each LEA shall provide child find and evaluation services to nonresident students who are parentally placed in a private elementary or secondary school in the LEA's jurisdiction.

2. If an LEA provides special education and related services to a student with an exceptionality who is a resident of the state of Louisiana and is located within the geographical boundaries of an LEA but is not a resident thereof, including students who are placed in a private residential facility or an intermediate care facility for the developmentally disabled for any reason by any individual or agency, the responsibility for the student's special education and related service is divided between the student's LEA of residence and the LEA where the student is located as follows:

a. the LEA where the student is located is responsible for providing special education and related services to the student; and

b. the cost of special education and related services shall be reimbursed by the LEA within the boundaries in which the student resides or in which a student who attains majority resides.

3. If a student with an exceptionality is living in a private residential facility in this state but the student is not a resident of this state, the LEA providing special education and related services to that student shall be reimbursed by

the residential facility for the cost of providing those services.

4. The state shall be responsible for funding the costs of special education and related services for students enrolled in the special school district and special schools, with the exception of daily transportation costs for day students at board special schools if the students are not placed by parent option. Those transportation costs remain the responsibility of the sending LEA.

5. The Department of Education and LEAs may, under policies established by the State Board of Elementary and Secondary Education, enter into purchase of service agreements or contracts with other public or non-public agencies to provide special education and related services.

6. This Section is not applicable to students who are adjudicated delinquent, or are members of a family in need of services by a court or is in the custody of the Office of Juvenile Justice as a result of any such adjudication and is assigned by the Office of Juvenile Justice to a community-based program or facility, pursuant to R.S. 17:100.1.

G. If a student's LEA of residence is required to fund a student's special education and related services while the student is located in another LEA in the State of Louisiana, the billing must be implemented as follows.

1. The LEA providing the special education and related services will claim the student on its student count for purposes of the Minimum Foundation Program (MFP) and any other available state or federal funding for which the student is eligible.

2. The LEA providing the special education and related services will determine the cost of the student's special education and related services by prorating all services among all participating students in each setting. Those costs include, but are not limited to, the following.

a. School bus transportation costs shall be the student's prorated share of the LEA's actual cost of the school bus, driver, and bus aide(s).

b. Classroom costs shall be the student's prorated share of the cost of the teacher, paraprofessional(s), and aide(s).

c. Related services costs shall be the hourly rate or a portion thereof, of a related service provider's salary or fee for the number of hours or minutes the student actually received services.

d. If the student does not qualify for a free breakfast or lunch pursuant to the United States Department of Agriculture free or reduced nutrition programs, the cost of any meals and snacks shall be the cost of the meals and snacks charged to all students.

e. The actual cost of any assistive technology or other required equipment, supplies, and supports can be billed to the LEA of residence.

f. Indirect costs cannot be included in the billings sent to the LEA of residence.

3. The LEA will subtract the total costs for the student, as enumerated herein, from the total state and federal funding generated by the student's enrollment. The difference may be billed to the student's LEA of residence.

4. Each LEA which intends to bill a non-resident student's Louisiana LEA of residence must send a written notification to the LEA of residence no later than 90 school days prior to sending a bill.

H. "Resident" as it applies to a student with a exceptionality for purposes of this Section shall mean any one of the following.

1. The student is a resident within the geographical boundaries of the local education agency in which the student's parent or parents have their legal residence, unless the parent or parents have relinquished custody of the student. In such case, the student is a resident within the geographical boundaries of the LEA in which the student's legal custodian or custodians have their legal residence.

2. If a student's parents are divorced, the student is a resident of the LEA in which the student's domiciliary or custodial parent has his or her legal residence.

3. If a student is in foster care, the student is a resident of the LEA in which the parent or parents with whom the student lived immediately prior to being placed into foster care have their legal residence.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1500 (July 2010).

### **Chapter 3. Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements**

#### **Subchapter A. Parental Consent**

##### **§301. Parental Consent**

A. - A.3.b. ...

B. Parental Consent for Services

1. - 2. ...

3. If the parent of a student fails to respond to a request for, or refuses to consent to the initial provision of special education and related services, the public agency:

a. may not use the procedures in Chapter 5 of these regulations (including the mediation procedures under §506 or the due process procedures under §§507 through 516) in order to obtain agreement or a ruling that the services may be provided to the student;

b. will not be considered to be in violation of the requirement to make FAPE available to the student because of the failure to provide the student with special education and related services for which the parent refuses to or fails to provide consent; and

c. is not required to convene an IEP Team meeting or develop an IEP under §320 and §324 for the student.

4. If, at any time subsequent to the initial provision of special education and related services, the parent of the student revokes consent in writing for the continued provision of special education and related services, the public agency:

a. may not continue to provide special education and related services to the student, but must provide prior written notice in accordance with §504 before ceasing the provision of special education and related services;

b. may not use the procedures in Chapter 5 of these regulations (including the mediation procedures under §506 or the due process procedures under §§507 through 516), in order to obtain agreement or a ruling that the services may be provided to the student;

c. will not be considered to be in violation of the requirement to make FAPE available to the student because of the failure to provide the student with further special education and related services; and

d. is not required to convene an IEP Team meeting or develop an IEP under §320 and §324 for the student for further provision of special education and related services;

e. special education and related services may not be discontinued until prior written notice is sent;

f. if the parent revokes consent in writing for his/her student's receipt of special education services after the student is initially provided special education and related services, the public agency is not required to amend the student's education records to remove any references to the student's receipt of special education and related services because of the revocation of consent.

C. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36:1502 (July 2010).

### **Chapter 5. Procedural Safeguards**

#### **§512. Hearing Rights**

A. General. Any party to a hearing conducted pursuant to §§507 through 513 or §§530 through 534 has the right to:

1. be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of students with disabilities, except that whether parties have the right to be represented by non-attorneys at due process hearings is determined under state law;

2. present evidence and confront, cross-examine, and compel the attendance of witnesses;

3. prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;

4. obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing at no cost; and

5. obtain written, or, at the option of the parents, electronic findings of fact and decisions at no cost.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36: 1502 (July 2010).

### **Chapter 6. Monitoring, Enforcement, Confidentiality, and Program Information**

#### **Subchapter A. Monitoring, Technical Assistance, and Enforcement**

##### **§601. State Monitoring and Enforcement**

A. The LDE shall monitor the implementation of these regulations, enforce these regulations in accordance with §605 and Bulletin 1922—*Compliance Monitoring Procedures*, and annually report on performance under these regulations. The LDE shall:

1. monitor the implementation of this part;

2. make determinations annually about the performance of each LEA using the categories in §604.B.1;

3. enforce this Section, consistent with §605, using appropriate enforcement mechanisms identified in §605.A.1 (technical assistance), §605.A.3 (conditions on funding of an LEA), § 605.B.2.a (a corrective action plan or improvement plan), §605.B.2.e (withholding funds, in whole or in part, by

the LDE), and §605.C.2 (with holding funds, in whole or in part, by the LDE); and

4. report annually on the performance of the state and of each LEA under this section, as provided in §603.B.1.b and B.2.

B. - D. 3. ...

E. In exercising its monitoring responsibilities under paragraph D of this section, the LDE must ensure that when it identifies noncompliance with the requirements of this part by LEAs, the noncompliance is corrected as soon as possible, and in no case later than one year after the LDE's identification of the noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36: 1502 (July 2010).

### **§603. State Use of Targets and Reporting**

A. ...

B. Public Reporting and Privacy

1. Public Report

a. Subject to Subparagraph B.1.b of this Section, the LDE shall:

i. report annually to the public on the performance of each LEA located in the state on the targets in the state's performance plan as soon as practicable but no later than 120 days following the state's submission of its annual performance report to the secretary under Paragraph B.2 of this Section; and

ii. make each of the following items available through public means: the state's performance plan, under §602; annual performance reports, under Paragraph B.2 of this Section; and the state's annual reports on the performance of each LEA located in the state, under Paragraph B.1.a.i of this Section. In doing so, the LDE must, at a minimum, post the plan and reports on the LDE website, and distribute the plan and reports to the media and through public agencies.

b. If the LDE, in meeting the requirements of Subparagraph B.1.a.i of this Section, collects performance data through state monitoring or sampling, the state shall include in its report under Clause B.1.a.i of this Section the most recently available performance data on each LEA, and the date the data were obtained.

2. State Performance Report. The LDE shall report annually to the secretary on the performance of the state under the state's performance plan.

3. Privacy. The LDE shall not report to the public or the secretary any information on performance that would result in the disclosure of personally identifiable information about individual students, or where the available data are insufficient to yield statistically reliable information.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36: 1503 (July 2010).

### **§607. Public Attention**

A. If the LDE receives notice that the secretary is proposing to take or is taking an enforcement action pursuant to §603, the LDE must, by means of a public notice, take such actions as may be necessary to notify the public within the state of the pendency of an action pursuant

to §603, including, at a minimum, by posting the notice on the LDE's website and distributing the notice to the media and through public agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36: 1503 (July 2010).

## **Chapter 7. Authorization, Allotment, Use of Funds, and Authorization of Appropriations**

### **§705. Subgrants to LEAs**

A. Subgrants Required. If the LDE receives a grant under §611 of the IDEA for any fiscal year, it shall distribute any funds the LDE does not reserve under §704 to LEAs (including public charter schools that operate as LEAs) in the state that have established their eligibility under §613 of the IDEA for use in accordance with Part B of the IDEA. Effective with funds that become available on July 1, 2009, the LDE must distribute funds to eligible LEAs, including public charter schools that operate as LEAs, even if the LEA is not serving any students with disabilities.

B. Allocations to LEAs. For each fiscal year for which funds are allocated to the LDE under §703, the LDE shall allocate funds as follows.

1. Base Payments. The LDE first shall award each LEA described in Subsection A of this Section the amount the LEA would have received under section 611 of the IDEA for fiscal year 1999, if the state had distributed 75 percent of its grant for that year under section 611(d) of the IDEA, as that section was then in effect.

2. Base Payment Adjustments. For any fiscal year after 1999:

a. if a new LEA is created, the LDE shall divide the base allocation determined under Paragraph B.1 of this Section for the LEAs that would have been responsible for serving students with disabilities now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of students with disabilities ages 3 through 21 currently provided special education by each of the LEAs;

b. if one or more LEAs are combined into a single new LEA, the LDE shall combine the base allocations of the merged LEAs; and

c. if, for two or more LEAs, geographic boundaries or administrative responsibility for providing services to students with disabilities ages 3 through 21 change, the base allocations of affected LEAs shall be redistributed among affected LEAs based on the relative numbers of students with disabilities ages 3 through 21 currently provided special education by each affected LEA;

d. if an LEA received a base payment of zero in its first year of operation, the LDE must adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports that it is serving any students with disabilities. The LDE must divide the base allocation determined under Paragraph B.1 of this Section for the LEAs that would have been responsible for serving students with disabilities now being served by the LEA, among the LEA and affected LEAs based on the relative numbers of students with disabilities ages 3 through 21, or ages 6 through 21 currently provided special education by each of the LEAs. This requirement takes effect with funds that become available on July 1, 2009.

3. Allocation of Remaining Funds. After making allocations under Paragraph B.1 of this Section, as adjusted by Paragraph B.2 of this Section, the LDE shall:

a. allocate 85 percent of any remaining funds to those LEAs on the basis of the relative numbers of students enrolled in public and private elementary schools and secondary schools within the LEA's jurisdiction; and

b. allocate 15 percent of those remaining funds to those LEAs in accordance with their relative numbers of students living in poverty, as determined by the LDE.

C. Reallocation of Funds. If the LDE determines that an LEA is adequately providing FAPE to all students with disabilities residing in the area served by that agency with state and local funds, the LDE may reallocate any portion of the funds under these regulations that are not needed by that LEA to provide FAPE, to other LEAs in the state that are not adequately providing special education and related services to all students with disabilities residing in the areas served by those other LEAs. The LDE may also retain those funds for use at the state level to the extent the LDE has not reserved the maximum amount of funds it is permitted to reserve for state-level activities pursuant to §704.

1. After the LDE distributes funds under this part to an eligible LEA that is not serving any students with disabilities, as provided in paragraph A. of this section, the LDE must determine, within a reasonable period of time prior to the end of the carryover period in 34 CFR 76.709, whether the LEA has obligated the funds. The LDE may reallocate any of those funds not obligated by the LEA to other LEAs in the state that are not adequately providing special education and related services to all students with disabilities residing in the areas served by those other LEAs. The LDE may also retain those funds for use at the state level to the extent the LDE has not reserved the maximum amount of funds it is permitted to reserve for state-level activities pursuant to §704.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2085 (October 2008), amended LR 36: 1503 (July 2010).

## **Chapter 8. Preschool Grants for Students with Disabilities and the Responsibilities of DHH and the LDE**

### **§802. State Administration**

A. For the purpose of administering §619 of IDEA (including the coordination of activities under Part B of the IDEA with, and providing technical assistance to, other programs that provide services to children with disabilities, the LDE may use not more than 20 percent of the maximum amount the LDE may reserve under §300.812 of the IDEA for any fiscal year.

#### **B. Other State Level Activities**

1. The LDE may reserve a portion of its allocation for other state level activities. The maximum amount that the state may reserve for other state level activities is governed by 34 CFR 300.812(b)(1) and (2).

2. Some portion of the funds reserved under Paragraph B.1 of this Section shall be used to carry out the following activities:

a. for support services (including establishing and implementing the mediation process required by §615(e) of IDEA);

b. for direct services for children eligible for services under §619 of IDEA;

c. to supplement other funds used to develop and implement a state-wide coordinated services system designed to improve results for children and families;

d. to provide early intervention services (which must include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with part C of the Act to children with disabilities who are eligible for services under section 619 of the Act and who previously received services under Part C of the Act until such children enter, or are eligible under state law to enter kindergarten.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36: 1504 (July 2010).

### **§803. Subgrants to LEAs**

A. Subgrants Required. If the LDE receives a grant under §619 of the IDEA for any fiscal year, it shall distribute any funds the LDE does not reserve under §802 to LEAs (including public charter schools that operate as LEAs) in the state that have established their eligibility under §613 of the IDEA. Effective with funds that become available on the July 1, 2009, the LDE must distribute funds to eligible LEAs, including public charter schools that operate as LEAs, even if the LEA is not serving any children with disabilities.

B. Allocations to LEAs. For each fiscal year for which funds are allocated to the LDE under §703, the LDE shall allocate funds as follows.

1. Base Payments. The LDE first shall award each LEA described in Paragraph A of this Section the amount the LEA would have received under §619 of the IDEA for fiscal year 1999, if the state had distributed 75 percent of its grant for that year under §619(c)(3) of the IDEA, as that section was then in effect.

2. Base Payment Adjustments. For any fiscal year after 1999:

a. if a new LEA is created, the LDE shall divide the base allocation determined under Paragraph B.1 of this Section for the LEAs that would have been responsible for serving students with disabilities now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of students with disabilities ages 3 through 5 currently provided special education by each of the LEAs;

b. if one or more LEAs are combined into a single new LEA, the LDE shall combine the base allocations of the merged LEAs;

c. if, for two or more LEAs, geographic boundaries or administrative responsibility for providing services to students with disabilities ages 3 through 5 change, the base allocations of affected LEAs shall be redistributed among affected LEAs based on the relative numbers of students with disabilities ages 3 through 5 currently provided special education by each affected LEA; and

d. if an LEA received a base payment of zero in its first year of operation, the LDE must adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports that it is serving any students with disabilities. The LDE must divide the base allocation determined under Paragraph B.1 of this Section for the

LEAs that would have been responsible for serving students with disabilities now being served by the LEA, among the LEA and affected LEAs based on the relative numbers of students with disabilities ages 3 through 21, or ages 3 through 5 currently provided special education by each of the LEAs. This requirement takes effect with funds that become available on July 1, 2009.

C. Reallocation of Funds. If the LDE determines that an LEA is adequately providing FAPE to all students with disabilities ages 3 through 5 years residing in the area served by the LEA with state and local funds, the LDE may reallocate any portion of the funds under these regulations that are not needed by that LEA to provide FAPE to other LEAs in the State that are not adequately providing special education and related services to students with disabilities ages 3 through 5 residing in the areas served by those other LEAs. The LDE may also retain those funds for use at the state level to the extent the LDE has not reserved the maximum amount of funds it is permitted to reserve for state-level activities pursuant to §802.

1. After the LDE distributes funds to an eligible LEA that is not serving any students with disabilities ages 3 through 5, as provided in paragraph A. of this section, the LDE must determine, within a reasonable period of time prior to the end of the carry-over period in 34 CFR 76.709, whether the LEA has obligated the funds. The LDE may reallocate any of those funds not obligated by the LEA to other LEAs in the State that are not adequately providing special education and related services to all students with disabilities ages 3 through 5 residing in the areas served by those other LEAs. The LDE may also retain those funds for use at the State level to the extent the LDE has not reserved the maximum amount of funds it is permitted to reserve for state-level activities pursuant to §802.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1504 (July 2010).

**Chapter 9. General**  
**Subchapter B. Definitions used in these Regulations**  
**§905. Definitions**

*Adapted Physical Education*—specially designed physical education for eligible students with disabilities.

*Age of Majority*—as defined in Louisiana, means 18 years of age.

*Alternate Assessment*—see Bulletin 1530—*Louisiana's IEP Handbook* and Bulletin 118—*Statewide Assessment Standards and Practices*.

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*Consent*—that:

1. the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication;

2. the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought; the consent describes that activity and lists the records (if any) that will be released and to whom; and

3.a. the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time;

b. if a parent revokes consent, that revocation is not retroactive (i.e., does not negate an action that has occurred

after the consent had been given and before the consent was revoked);

c. if the parent revokes consent in writing for his/her child's receipt of special education and related services, the public agency is not required to amend the student's education records to remove any references to the student's receipt of special education and related services because of the revocation.

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*Student with a Disability*—

1. General

a. - b.i. ...

ii. If consistent with Subparagraph 1.b in the definition of special education in this Section, the related service required by the student is considered special education rather than a related service under state standards, the student would be determined to be a student with a disability under Subparagraph 1.a of this definition.

2. - 3.m. ...

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AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2086 (October 2008), amended LR 36: 1505 (July 2010).

Jeanette Vosburg  
Executive Director

1007#043

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook (LAC 28:XLI.Chapters 1-13)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook. The changes to Bulletin 1929 reflect the following:

1. additions and changes related to financial reporting by the department to the U. S. Department of Education.

2. additions and changes to allow uniform reporting in both the Student Information System (SIS) and the Profile of Education Personnel (PEP) due to required reporting for Federal programs

3. additions and changes to allow for required financial reporting per Act 310 of the 2009 Regular Legislative Session regarding weighted student funding

**Title 28**

**EDUCATION**

**Part XLI. Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook**

**Chapter 1. Purpose of Handbook**

**§101. Introduction**

A. - C.4. ...

5. The guidelines should conform to generally accepted accounting principals. Governmental funds should be accounted for using the modified accrual basis of accounting; proprietary and fiduciary funds should be accounted for using the accrual basis.

C.6. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:462 (March 2000), amended LR 36:1505 (July 2010).

### **Chapter 3. The Account Classification Structure**

#### **§301. Explanation/General Information**

A. - B.4. ....

5. *Balance Sheet Accounts*—these classifications correspond to those items normally appearing on the balance sheet in three areas: assets and other debits; liabilities and other credits; and fund balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:462 (March 2000), amended LR 36:1506 (July 2010).

### **Chapter 5. Fund Classifications**

#### **§501. Explanation/General Information/ Introduction/Overview**

A. Governmental accounting systems should be organized and operated on a fund basis. Unlike a private business, which is accounted for as a single entity, a governmental unit is accounted for through separate funds, each accounting for designated assets, liabilities and fund or other balances. Therefore, from an accounting and financial management viewpoint, a governmental unit is a combination of several distinctively different fiscal and accounting entities, each having a separate set of self-balancing accounts and functioning independently of other funds. Each fund must be so accounted for that the identity of its resources, obligations, revenues, expenditures, and fund balances is continually maintained.

B. ...

C. Funds used by governmental entities are classified into three broad categories: governmental, proprietary, and fiduciary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:462 (March 2000), amended LR 36:1506 (July 2010).

#### **§503. Governmental Funds**

A. Governmental Funds are funds through which most functions are typically financed. Governmental funds are accounting segregations of financial resources. Their measurement focus is on the determination of short-term financial position and on the changes in short-term financial position (sources, uses, and balances of financial resources), rather than on net income determination. To achieve this current financial resource focus, the modified accrual basis of accounting is used. This measurement focus is unique in that generally only current expendable financial resources are accounted for in the governmental fund category. Capital assets, non-current assets, deferred charges and long-term debt are not accounted for within these funds. Within the governmental funds category are the five fund types described below.

1. The General Fund. This is the chief operating fund of the school district. It is used to account for all financial resources of the school district, except those required to be accounted for in another fund. A district may only have one general fund.

2. Special Revenue Funds. These funds are used to account for specific revenue sources that legally may be expended only for specific purposes. Special revenue funds are not used for amounts held in trust or for resources that will be used for major capital projects. Some examples of special revenue funds are:

a. Federal Revenue

i. NCLB Funds—all revenue related to the No Child Left Behind (NCLB) including all parts.

ii. Special Education Funds—all revenue relating to the Individuals with Disabilities Education Act (IDEA) and all related parts.

iii. Other Federal Revenue—used to account for all other federal revenue, including, for example, Adult Education, Career and Technical Education, and Headstart.

b. Other Revenue

i. School Food Service Funds—all revenue, federal, state, or local related to the Child Nutrition Programs including School Lunch, School Breakfast, After School Snacks, Catering, and Nutrition Education.

ii. ...

3. Capital Projects Funds. This fund is used to account for major capital acquisitions or construction. These funds are not used for construction financed by proprietary or trust funds. A separate Capital Projects Fund is usually established when the project exceeds a single fiscal year, when the financing sources are provided by more than one fund, or when the capital asset is financed by specifically designated resources.

4. Debt Service Funds. This fund is used to account for the accumulation of resources to pay the principal and interest on general long-term debt. A Debt Service Fund may be used for each obligation; however, it should be established only if legally required or if resources are being accumulated to meet future payments. When obligations are paid, on a current basis, by the General Fund or by a Special Fund, there is no need to create a Debt Service Fund unless legally required to do so.

5. Permanent Funds. This fund is used to account for resources that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the school district's programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A) (10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:463 (March 2000), amended LR 27:1684 (October 2001), amended LR 36:1506 (July 2010).

#### **§505. Proprietary Funds**

A. A Proprietary Fund is used to account for activities that are similar to activities that may be performed by a commercial enterprise. The measurement focus is on the determination of net income, financial position, and changes in financial position and therefore the basis of accounting is full accrual. This measurement focus and basis of accounting, similar to that found in the private sector, is based on the flow of economic resources; it requires the reporting of all assets and liabilities associated with a particular activity, including capital assets and long-term assets and liabilities. Within the proprietary fund category are two fund types.

1. - 1.b. ...

2. Internal Service Funds—used to account for the financing of goods or services provided by one department or agency to other departments or agencies within the governmental unit, or to other governmental units, on a cost-reimbursement basis. Thus, the objective of an Internal Service Fund is not to make profit, but rather to recover over a period of time the total cost of providing the goods or services. Examples include funds used to account for certain employee benefits, risk management and fleet or facility usage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:463 (March 2000), amended LR 36:1506 (July 2010).

### **§507. Fiduciary Funds**

A. Fiduciary Funds are used to account for assets when a governmental unit is functioning either as a trustee or as an agent for another party; they are commonly referred to as trust and agency funds.

1. Trust Funds. These funds are used to account for assets held by a school district in a trustee capacity for others (e.g. members and beneficiaries of pension plans, external investment pools, or private purpose trust arrangements) and therefore cannot be used to support the school district's own programs. Trust funds are generally accounted for on the economic resources measurement focus and the accrual basis of accounting. Trust funds include pension trust funds, investment trust funds, and private purpose trust funds (as described below).

a. Pension Trust Funds. This fund is used to account for resources that are required to be held in trust for members and beneficiaries of defined benefit pension plans, defined contribution plans, other post employment benefit plans, or other benefit plans. Typically, these funds are used to account for local pension and other employee benefit funds that are provided by a school district in lieu of or in addition to any state retirement system.

b. Investment Trust Funds. This fund is used to account for the external portion (i.e., the portion that does not belong to the school district) of the investment pools operated by the school district.

c. Private Purpose Trust Funds. This fund is used to account for other trust arrangements under which the principal and income benefit individuals, private organizations or other governments.

2. Agency Funds. This account is used for funds that are held in a custodial capacity by a school district for individual, private organizations or other governments. Agency funds may include those used to account for student activities or taxes collected for another government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:463 (March 2000), amended LR 36:1507 (July 2010).

## **Chapter 6. Measurement Focus and Basis of Accounting**

### **§601. Explanation/General Information/Introduction/Overview**

A. The information provided in this Section was extracted from the *Financial Accounting for Local and State*

*School Systems: 2009 Edition*, released by the U.S. Department of Education.

B. Traditionally, the majority of governmental financial information has been maintained and reported in fund financial statements on the modified accrual basis of accounting (or the accrual basis for business-type activities). GASB Statement 34 established additional reporting (the government-wide statements) that represents a major shift in the focus and content of governmental financial statements. Collecting and reporting the additional financial information required by the government-wide statements adds to the complexity of financial reporting activities and has significant implications for the traditional focus and basis of accounting used in governmental financial statements.

C. The government-wide financial statements consist of a statement of net assets and a statement of activities and are prepared using the economic resources measurement focus and the accrual basis of accounting. Thus, revenues are recognized in the accounting period in which they are earned and become measurable, without regard to availability, and expenses are recognized in the period incurred, if measurable. (City, parish, and other local school systems annually submit audited basic financial statements which include government-wide and fund financial statements to the Louisiana Legislative Auditor's Office.)

D. Governmental fund financial statements are prepared using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized in the accounting period in which they become available and measurable, and expenditures are recognized in the period in which the fund liability is incurred, if measurable, except for unmatured interest on general long-term debt, which should be recognized when due (GASB 2005a). Proprietary fund financial statements are prepared using the economic resources measurement focus and the accrual basis of accounting. (City, parish, and other local school systems are required to submit an Annual Financial Report (AFR) to the Department of Education each year. Table I of the AFR is based on fund financial statements.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1507 (July 2010).

### **§603. Fund Financial Statements—Reporting of Expenditures/Expenses**

A. Expenditures. GASB Codification Chapter 1600.116 defines expenditures as decreases in net financial resources. In governmental funds, the recognition of expenditures occurs in accordance with the modified accrual basis of accounting. Expenses incurred in proprietary funds are recognized using the accrual basis of accounting. Therefore, significant differences exist between the recognition of expenditures in governmental funds and the recognition of expenses in proprietary funds.

B. In governmental funds, expenditures are usually recognized in the accounting period in which the goods or services are received and the liability for payment is incurred. However, in instances in which current financial resources are not reduced as a result of the incurrence of a liability, an expenditure is not recorded. A common example is the liability for compensated absences (e.g., employee sick and vacation pay). Such liabilities result from current

services received from employees; however, the payment of the liabilities usually does not occur until a future date. As a result, compensated absences relating to employees whose salaries are accounted for in governmental funds are not recorded as expenditures and liabilities of the fund until the due date for payment of the compensated absences. GASB Interpretation No. 6 clarifies the guidance for recognizing certain liabilities and expenditures in governmental funds, including general long-term indebtedness, such as compensated absences. The matured portion of long-term indebtedness, to the extent it is expected to be liquidated with expendable available financial resources, should be recorded as a fund liability and expenditure. The unmatured portion of the long-term indebtedness represents a general long-term liability to be presented in the government-wide financial statements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1507 (July 2010).

#### **§605. Types of Expenditures and Accounting Treatments**

A. The major types of expenditures are operating, capital, debt service and intergovernmental charges described as follows.

1. Operating expenditures for governmental agencies include a wide range of expenditures. Often, the largest portion relates to payroll and related employee benefits. The modified accrual basis of accounting requires that proper accruals be made for the amount of unpaid salaries and related benefits earned at year-end, because these liabilities will be paid early in the next reporting period. (The other types of operating expenditures should be accounted for in the same manner, with the recording of a liability when the goods or services are received and necessary accruals made at year-end.)

2. Capital expenditures relate to the acquisition of capital assets. Such expenditures may be recorded in the general fund, special revenue funds, or capital projects funds, depending on the source of funding. Purchases of personal property, such as furniture and equipment, are usually recorded as expenditures in the general fund if they are financed from operating budgets or in the general fund or special revenue funds if they are financed from grants. Major projects, such as the construction of a school building financed by the proceeds of debt, should be accounted for in a capital projects fund. Costs associated with acquiring capital assets in governmental funds are recorded as capital outlay expenditures when the liability is incurred, usually on receipt of the related asset.

3. Debt service expenditures represent the payment of principal and interest needed to service debt. Such payments are usually recorded as expenditures in the debt service fund on the due date. The general fund may also be used if a debt service fund is not required. The modified accrual basis of accounting provides that accruals for interest are not usually allowed. When funds have been transferred to the debt service fund in anticipation of making debt service payments shortly after the end of the period (no more than 30 days), it is acceptable to accrue interest and maturing debt in the debt service fund in the year the transfer is made. This option is available only if monies are legally required to be set aside in a debt service fund and if used on a consistent basis.

4. Intergovernmental charges relate to the transfer of resources from one school district to another, to or from other local governments, or to or from the state. Examples of such charges include contracted instructional services between public schools, other local governments, or state-operated schools and certain transfers of resources associated with state and local funding (e.g., incremental costs associated with wealth redistribution). Such expenditures are accounted for in the general fund using the modified accrual basis of accounting. Payments between school districts and fiscal agents of cooperative services arrangements (e.g., joint instructional or servicing agreements) are also considered intergovernmental charges.

B. In addition, transfers result in the reduction of a fund's expendable resources, but they are not classified as expenditures. A transfer is a legally authorized movement of monies between funds in which one fund is responsible for the receipt of funds and another fund is responsible for the actual disbursement. In a transfer, the disbursing fund records the transaction as "other financing uses" of resources, and not as an operating expenditure, whereas the fund receiving the transfer does not record the receipts as revenue, but rather as "other financing sources" of funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1508 (July 2010).

#### **§607. Expenses**

A. Expenses are defined as the outflows or expiration of assets or the incurrence of liabilities during a period, from providing or producing goods, rendering services, or carrying out other activities that constitute the entity's primary operations.

B. Proprietary funds recognize expenses using the accrual basis of accounting (i.e., when the related liability is incurred), without regard for the timing of the payment. This recognition criterion is consistent with the following guidelines discussed in Financial Accounting Standard Board (FASB) Statement No. 5. Although FASB Statements do not represent authoritative guidance for governments, the discussion is useful in classifying expense transactions within proprietary funds.

1. Associating cause and effect. Some expenses (such as the cost of goods sold) are recognized on recognition of revenues that result directly and jointly from the same transactions or other events as the expenses.

2. Systematic and rational allocation. Some expenses (such as depreciation and insurance) are allocated by systematic and rational procedures to the periods during which the related assets are expected to provide benefits.

3. Immediate Recognition. Many expenses (such as selling and administrative salaries) are recognized during the period in which cash is spent or liabilities are incurred for goods or services that are used up either simultaneously with acquisition or soon after.

C. As examples, the major types of governmental expenditures are accounted for differently in proprietary fund expenses as follows.

1. Capital. Capital asset acquisition in proprietary funds is accounted for using the flow of economic resources method. Amounts disbursed for the acquisition of capital assets are not recorded as an expense. Instead, the appropriate property, plant, or equipment asset account is

debited on the purchase. Depreciation expense is recorded to reflect the allocation of the cost of the assets to operations over the service life of the asset.

2. Debt Service. Principal payments on debt do not represent expenses for proprietary funds but rather are recorded as a reduction of the obligation. Payments of interest represent expenses to be accounted for on the accrual basis of accounting. Accrual of interest at year-end is usually necessary to reflect the proper amount of expense for the period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1508 (July 2010).

### **§609. Government-wide Statements—Reporting of Expenditures**

A. Governmental entities are required to present their government-wide financial statements on the accrual basis of accounting. Thus, the statement of activities reflects the expenses of the entity or the reporting period. Entities are required to report all expenses by activities and programs (by function), except certain indirect expenses, as explained below. GASB has defined direct expenses as those that are specifically associated with a service, program, or department and thus are clearly identifiable to a particular function. Direct expenses include both operating and non-operating expenses, including depreciation and amortization of assets.

B. Functions, such as general administration or data-processing services, may include indirect expenses of other functions. Governmental entities are not required to allocate indirect expenses to other functions, but may choose to do so. If indirect expenses are allocated, direct and indirect expenses should be presented in separate columns. A column totaling direct and indirect expenses may be presented, but is not required. Indirect expenses may be allocated to any of the primary government's functions. Although there are no standards for determining an allocation methodology, there should be a reasonable basis for expense allocations.

C. Depreciation and interest expense should be included in the statement of activities as follows.

1. Capital Assets that can be Specifically Identified with a Function. Depreciation should be included in the direct expenses of that function.

2. "Shared" Capital Assets. Depreciation should be prorated as a direct expense of the appropriate functions on some reasonable allocation basis.

3. Capital Assets that Essentially Serve all Functions. Depreciation is not required to be included in the direct expenses of the various functions, but may be reflected as a separate line captioned "unallocated depreciation" in the statement of activities or as part of the general government function. If an entity chooses to use a separate line in the statement of activities to report unallocated depreciation expense, it should clearly indicate in the footnotes to the financial statements that this line item does not include direct depreciation expenses of the other functions. Because school buildings often serve multiple functions, many school districts report the depreciation as "unallocated depreciation" for these assets.

4. General Infrastructure Assets. Depreciation should not be allocated to the various functions, but should be reported as a direct expense of the function that the reporting

government normally associates with capital outlays or as a separate line in the statement of activities.

5. Interest Expense. Interest on general long-term liabilities, including interest on capital leases or other vendor financing arrangements, should be considered an indirect expense. Interest on long-term debt should be included in direct expenses only when borrowing is essential to the creation or continuing existence of a program.

D. The difference between a "shared" capital asset and one that "essentially serves all functions" is the number of functions involved. As the number of functions increase, the ease, practicality, and usefulness of assigning depreciation to those functions decreases. Therefore, the depreciation of assets that serve many, or essentially all, functions is not required to be included in the direct expenses of those functions. A shared capital asset is generally used by only a few functions, and its use can be specifically identified to those functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A) (10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36 1509 (July 2010).

### **Chapter 7. Classification of Revenues and Other Sources of Funds**

#### **§701. Revenue Codes**

A. Revenue codes necessary for reporting to the National Center for Education Statistics are marked with an asterisk.

B. 1000 Revenue from Local Sources

1. 1100 Taxes Levied/Assessed by the School District—compulsory charges levied by the school system to finance services performed for the common benefit.

a. 1110\* Ad Valorem Taxes - Gross—amounts levied by a school district on the taxable assessed value of real and personal property within the school district that, within legal limits, is the final authority in determining the amount to be raised for school purposes. By "gross," it is meant that the taxes are recorded at the amount actually collected by the tax collector before deduction for the assessor's compensation and/or deduction for amounts remitted to the various retirement systems in the state. Delinquent taxes are recorded in this account in the fiscal year received, whereas penalties and interest on ad valorem taxes should be included in account 1116. The deduction for assessor's compensation should be recorded as a debit to object 311, assessor fees, and the deduction for amounts remitted to the various retirement systems in the state should be recorded as a debit to object 313, pension fund, under function 2315.

i. 1111 Constitutional Tax—the tax that is permitted to be levied by a school system under authority of the 1974 constitution. This tax is in perpetuity; it is not subject to a vote of the electorate. The amount of millage that may be levied varies from school district to school district. This tax is a General Fund revenue.

ii. 1112 Renewable Taxes—taxes that the electorate has authorized the school system to levy for a specified period of time, not to exceed ten (10) years. At the end of the time period specified, the electorate must approve an extension by popular vote, not to exceed ten (10) years, for the tax to be levied again. These taxes may be either General Fund or Special Revenue Fund revenues, depending on their purpose and the manner in which the tax was imposed.

iii. 1113 Debt Service Taxes—taxes that the electorate have authorized the school system to levy for the retirement of general obligation long-term debt. The proceeds are normally placed in the Debt Service Fund.

iv. 1114 Up to 1 percent Collections on Non-School District Taxes for Teachers Retirement System of LA—The Sheriff and Ex-Officio Tax Collector of each parish is mandated by State law to remit 1 percent of the total qualifying taxes collected from all taxing bodies within the parish to the Teachers Retirement System of Louisiana for the credit of the parish school system. This amount may be obtained annually from the Tax Collector's office. It is recorded by debiting retirement expenditures and crediting this account. This tax is a General Fund revenue.

v. 1115 Property Taxes Collected as a Result of a Court Ordered Settlement—Revenues recognized in a year other than the year due, as a result of a court ordered settlement.

vi. 1116 Penalties and Interest on Property Taxes—Revenue from penalties for the payment of taxes after the due date and the interest charged on delinquent taxes.

vii. 1117 Taxes Collected Due to Tax Incremental Financing (TIF)—Revenues collected that are not available for use by the school district due to tax incremental financing (TIF). TIF financing is a development tool used by municipalities to stimulate private investment and development in areas by capturing the tax revenues generated by the development itself, and using these tax revenues to pay for improvements and infrastructure necessary to enable the development.

b. 1130\* Sales and Use Taxes—Taxes assessed by the school system on the taxable sale and consumption of goods and services within the school district.

i. 1131 Sales and Use Taxes—Gross – Taxes assessed by the school system on the taxable sale and consumption of goods and services within the school district. By "gross" it is meant that the taxes are recorded at the amount actually collected before any deduction for the cost of collection. This tax may be a General Fund, Special Revenue Fund, or Debt Service Fund revenue. Delinquent taxes are recorded in this account, whereas penalties and interest on sales and use taxes should be included in account 1136.

ii. 1135 Sales and Use Taxes Collected as a Result of a Court Ordered Settlement – Revenues recognized in a year other than the year due, as a result of a court ordered settlement.

iii. 1136 Penalties and Interest on Sales and Use Taxes – Revenue from penalties for the payment of taxes after the due date and interest charged on the delinquent taxes.

iv. 1137 Taxes Collected Due to Tax Incremental Financing (TIF)—revenues collected that are not available for use by the school district due to tax incremental financing (TIF). TIF financing is a development tool used by municipalities to stimulate private investment and development in areas by capturing the tax revenues generated by the development itself, and using these tax revenues to pay for improvements and infrastructure necessary to enable the development.

2. 1200 Revenue from Local Governmental Units Other Than LEA's—revenue from the appropriations of another governmental unit. The LEA is not the final authority, within legal limits, in determining the amount of money to be received; the money is raised by taxes or other means that are not earmarked for school purposes. This classification could include revenue from townships, municipalities, parishes, etc.

3. 1300 Tuition—revenue from individuals, welfare agencies, private sources and other LEA's for education provided by the LEA.

a. 1310\* Tuition from Individuals—amounts paid by students to attend classes. It is irrelevant whether the students reside inside or outside the parish. This revenue is normally a General Fund revenue.

b. 1311 Tuition from Individuals Excluding Summer School—amounts paid by students to attend classes other than Summer School. It is irrelevant whether the students reside inside or outside the parish.

c. 1312 Tuition from Individuals for Summer School—amounts paid by students to attend summer school classes. It is irrelevant whether the students reside inside or outside the parish.

d. 1320\* Tuition from Other LEA's within the State—amounts paid by public school systems within the state of Louisiana for educational services rendered to students from that school system. This revenue is normally a General Fund revenue.

e. 1321\* Tuition from Other LEA's outside the State—amounts paid by public school systems outside the State of Louisiana for educational services rendered to students from that state.

f. 1330\* Tuition from Other Government Sources within the State—amounts paid by other government sources within the state of Louisiana for educational services rendered.

g. 1331\* Tuition from Other Government Sources Outside the State—amounts paid by other government sources outside the state of Louisiana for educational services rendered.

h. 1390\* Tuition from Other Private Sources (Other than Individual)—amounts paid by persons other than individuals and other local education agencies for tuition.

4. 1400 Transportation Fees—revenue from individuals, welfare agencies, private sources, or other LEA's for transporting students to and from school and school activities. Transportation funds received for non-public transportation are to be recorded in 3250 Non-Public Transportation.

a. 1410\* Transportation Fees from Individuals—amounts paid by individual persons for transportation services rendered by the school system. This fee is normally a General Fund revenue.

b. 1420\* Transportation Fees from Other LEA's or Charter Schools within the State—amounts paid by other local education agencies for transportation services rendered by the school system. This fee is normally a General Fund revenue.

c. 1421\* Transportation Fees from Other LEA's outside the State—amounts paid by public school systems

outside the State of Louisiana for transportation services rendered to students from that state.

d. 1430\* Transportation Fees from Other Government Sources within the State—amounts paid by other government sources within the state of Louisiana for transportation services rendered.

e. 1431\* Transportation Fees from Other Government Sources outside the State—amounts paid by other government sources outside the state of Louisiana for transportation services rendered.

f. 1440\* Transportation Fees from Other Private Sources (Other than Individuals)—amounts paid by persons other than individuals and other local education agencies for transportation services rendered by the school system.

5. 1500\* Earnings on Investments—revenue from short-term and long-term investments. The revenue is credited to the fund that has provided the monies for the investments.

a. 1510 Interest on Investments—interest revenue on investments in United States treasury and agency obligations, notes, savings accounts, checking accounts, time certificates of deposit, mortgages, or other interest-bearing instruments.

b. 1530 Net Increase in the Fair Value of Investments—gains recognized from the sale of investments or changes in the fair value of investments. Gains represent the excess of sale proceeds (or fair value) over cost or any other basis of the date of sale (or valuation). All recognized investment gains may be accounted for by using this account; however, interest earnings from short-term investments may be credited to account 1510 (for tracking purposes only). For financial reporting purposes, GASB Statement 31 requires that all investment income, including the changes in fair value of investments, be reported as revenue in the operating statement.

c. 1531 Realized Gains (Losses) on Investments—gains or losses recognized from the sale of investments. Gains represent the excess of sale proceeds over cost or any other basis at the date of sale. Losses represent the excess of the cost or any other basis at the date of sale over sales value. For financial reporting purposes, the net of all realized and unrealized investment gains and losses should be reported as a single line in the financial statements; however, this account and the following account may be used for internal tracking purposes.

d. 1532 Unrealized Gains (Losses) on Investments—gains or losses recognized from changes in the value of investments. Gains represent the excess of fair value over cost or any other basis at the date of valuation. Losses represent the excess of the cost or any other basis at the date of valuation over fair value. For financial reporting purposes, the net of all realized and unrealized investment gains and losses should be reported as a single line in the financial statements; however, this account and the previous account may be used for internal tracking purposes.

e. 1540 Earnings on Investment in Real Property—revenue received for renting or leasing, royalties, use charges and other income from real property held for investment purposes.

i. 1541 Earnings from 16th Section Property—amounts charged or received for the use or severance of natural resources from 16th Section properties

owned by the school system, including leases under R.S. 30:154. This revenue is normally a General Fund revenue.

ii. 1542 Earnings from Other Real Property—amounts charged or received for the use or severance of natural resources from lands other than 16th Section property owned by the school system, including leases under LRS 30:154. This revenue is normally a General Fund revenue.

6. 1600\* Food Services—revenues collected by the School Food Service Department for dispensing food to students, adults, and other agencies. This revenue includes funds for "at cost" meals, paying students, contracted meals, and catering revenues.

a. 1610 Income from Meals—revenues collected by the School Food Service Department for meals served to students, adults, or visitors, contract meals, second meals to students, and "at cost" meals. Sales taxes collected on eligible meal purchases should not be recorded here, but instead be recorded on the balance sheet as sales taxes payable to the parish sales tax collector under object 411, intergovernmental accounts payable.

b. 1620 Income from Extra Meals—revenues collected by the School Food Service Department for extra servings, catering services, special functions, or sales of milk and juice.

7. 1700\* District Activities—revenues resulting from co-curricular and extra-curricular activities controlled and administered by the school district. These revenues are not to be comingled with proceeds from student activities. An important distinction is that disbursing monies from the district activity funds requires approval by the school board, whereas disbursing monies from the student activity fund may be subject to approval by the student organization and its sponsor, rather than by the school board.

a. 1710 Admissions—revenue from patrons of a school-sponsored activity, such as a concert or a football game.

b. 1720 Bookstore Sales—revenue from sales by students or student-sponsored bookstores.

c. 1730 Student Organization Membership Dues and Fees—revenue from students for memberships in school clubs or organizations.

d. 1740 Fees—revenue from students for fees such as locker fees, towel fees, and equipment fees. Transportation fees are recorded under the appropriated account in the 1400 series.

e. 1750\* Revenue from Enterprise Activities—revenue (gross) from vending machines, school stores, soft drink machines, and so on, not related to the regular food service program. These revenues are normally associated with activities at the campus level that generate incremental local revenues for campus use.

f. 1790 Other Activity Income—other revenue from school or district activities.

8. 1800\* Revenue from Community Service Activities—revenues received from providing community service activities operated by the school system. This fee is a revenue to the fund to which expenditures of operation of the activity are charged.

9. 1900 Other Revenues from Local Sources—other revenue from local sources not classified above.

a. 1910\* Rentals—fees charged for the use of school facilities or equipment. These fees are normally a General Fund revenue. Rental of property held for income purposes is not included here, but is recorded under account 1540.

b. 1920\* Contributions and Donations From Private Sources—revenue associated with contributions and donations made by private organizations for which no repayment or special service to the contributor is expected. These organizations include, but are not limited to, educational foundations, PTA/PTO organizations, campus booster clubs, and private individuals. This code should be used to record on-behalf payments made by private organizations to school district personnel (e.g., stipends paid to teachers or other school district staff). The granting person may require that a special accounting be made of the use of the funds provided, a stipulation that may require the use of a Special Revenue Fund or a Trust Fund.

c. 1930\* Gains or losses on the Sale of Capital Assets (Proprietary and Fiduciary Funds)—the amount of revenue over (under) the book value of the capital assets sold. For example, the gain of the sale would be the portion of the selling price received in excess of the depreciated value (book value) of the asset. This account is used in Proprietary and Fiduciary funds only. Revenue account 5300 is used for governmental funds.

i. 1931 Sale of Surplus Items/Capital Assets—amounts received by the LEA for the sale of land, buildings, improvements, furniture or equipment. This revenue is normally revenue to the fund which had originally purchased the capital assets.

ii. 1932 Insurance Proceeds from Losses—amounts received by the LEA from an insurance company to compensate for the fire, theft, or the casualty to capital assets. This revenue is normally revenue to the fund that had originally purchased the items.

d. 1935 Judgments—amounts received as a result of a court order or judgment in favor of the LEA. This revenue is normally a revenue to the fund that expended monies to rectify the claim or paid the associated legal fees relative to the action that gave rise to the favorable judgment.

e. 1940\* Textbook Sales and Rentals—revenue received from the sale or rental of textbooks (also includes collections for lost or damaged textbooks). This revenue is normally a General Fund revenue.

f. 1950\* Miscellaneous Revenues from Other LEA's—revenues received from other local education agencies other than for tuition and transportation services. These services could include data processing, purchasing, maintenance, cleaning, consulting and guidance. This revenue is normally a General Fund revenue.

g. 1960\* Miscellaneous Revenues from Other Local Governments—revenues from services provided to other units of local government. These services could include nonstudent transportation, data-processing, purchasing, maintenance, cleaning, cash management and consulting. This fee is normally a General Fund revenue.

h. 1970 Revenues from Other Departments in the Agency—interfund charges for services rendered by one fund to another fund (i.e., departments within the agency) for services such as printing or data-processing. This account is only used with Internal Service funds. Revenue from

private individuals, businesses, and associations for services provided should be coded to 1990 Miscellaneous Local Revenue.

i. 1990\* Miscellaneous—revenues from other local sources that are not classified above. This revenue is normally a General Fund revenue.

i. 1991 Medicaid Reimbursement—reimbursement received from the Medicaid program for services rendered to qualifying students under the program. This revenue is normally a General Fund revenue.

ii. 1992 Kid Med—fees or reimbursements received for providing Early Periodic Screening, Diagnosis and Treatment (EPSDT) services to qualifying students. This revenue is normally a General Fund revenue.

iii. 1993 Refund of Prior Year's Expenditures—expenditures that occurred last year that are refunded this year. If the refund and the expenditure occurred in the current year, reduce this year's expenditures, as prescribed by GAAP. (E-rate should be netted against the expenditure if it was received in the same fiscal year; if it was received in a subsequent fiscal year, it should be coded here.)

iv. 1994 Local Revenue Transfers from Another LEA—local revenue transferred from the district of prior jurisdiction. This is typically used to report revenue transferred from an LEA to the Recovery School District or a Type 5 Charter School as required by the Minimum Foundation Program (MFP). Also included Type 2 Charter Schools for which the school district provides the local share contribution. (Type 2 Charters approved on or after July 1, 2008.) This is a general fund revenue.

v. 1999\* Other Miscellaneous Revenues—revenues from local sources not classified above.

#### C. 3000\* Revenue from State Sources

1. 3100 Unrestricted Grants-In-Aid—revenue recorded as grants by the LEA from state funds, which can be used for any legal purpose desired by the LEA without restriction. Separate accounts may be maintained for general grants-in-aid that are not related to specific revenue sources of the state and for those assigned to specific sources of revenue, as appropriate.

a. 3110 State Public School Fund—monies distributed to Louisiana public school systems under the Minimum Foundation Program (MFP). This revenue is a General Fund revenue.

b. 3115 State Public School Fund - Food Services—monies transferred from the Minimum Foundation Program (MFP) for food services operations. The Federal Government requires a match of state funds for the school lunch program. This revenue is an Other Special Funds revenue.

c. 3120 16th Section Land Fund Interest—interest paid by the state to certain school systems due to the erroneous sale of 16th Section lands during the nineteenth century. The rate of interest is fixed at 4 percent per annum per LRS 41:641.

d. 3190 Other Unrestricted Revenues—other funds distributed by the state to the school systems; these funds are not dedicated, or required to be used for specific purposes. This revenue may be General Fund or Special Revenue Fund revenue.

2. 3200 Restricted Grants-in-Aid—revenue recorded as grants by the LEA from state funds; these funds must be used for a categorical or specific purpose. If such money is not completely used by the LEA, it must be returned, usually, to the State.

a. 3210 Special Education—amounts granted by the State; they are required to be used solely for special education purposes. This revenue may be General Fund or Special Revenue Fund revenue.

b. 3220 Education Support Fund—amounts granted under the 8(g) Mineral Trust Fund by the Board of Elementary and Secondary Education (B.E.S.E.) to be used for specific purposes stated in the grant application. This revenue may be General Fund or Special Revenue Fund revenue.

c. 3223 Sixteenth Section Land Funds (withdrawals)—revenue derived from Sixteenth Section indemnity lands. This revenue is held in trust by the Louisiana Department of Treasury for all school districts involved.

d. 3225 Adult Education—amounts granted by the State under R.S. 17:14; it is required that the revenue be used solely for adult education purposes. This revenue may be General Fund or Special Revenue Fund revenue.

e. 3230 PIP—funds granted by the State to school systems for paying Professional Improvement Program (PIP) salaries to qualifying teachers in the systems. This revenue is normally General Fund revenue.

f. 3240 LA-4—funds granted by the State that are required to be used to provide high quality early childhood educational experienced to four-year-old children who are considered to be “at risk” of achieving later academic success. This revenue may be General Fund or Special Revenue Fund revenue.

g. 3250 Non-Public Transportation—amounts granted by the state for which payment is made to the LEA upon receipt of an agreement between the LEA and the non-public school system to provide transportation of non-public students to non-public schools by the use of the LEA's transportation system. This revenue is normally a General Fund revenue.

h. 3255 Non-Public Textbook—amounts granted by the state to reimburse LEA's for purchases of textbooks on behalf of non-public schools. This revenue is normally a General Fund revenue.

i. 3290 Other Restricted Revenues—other restricted revenues received from the state, other than those described above; these funds must be used for a categorical or specific purpose.

3. 3800 Revenue in Lieu of Taxes—commitments or payments made out of general revenues by a state to the LEA in lieu of taxes it would have had to pay had its property or other tax base been subject to the taxation by the LEA on the same basis as privately owned property. It would include payment made for privately owned property that is not subject to taxation on the same basis as other privately owned property due to action by the State.

a. 3810 Revenue Sharing; Constitutional Tax—funds appropriated annually by the State Legislature to fulfill its constitutional obligation to compensate local school systems partially for tax revenue lost due to homestead

exemptions on the constitutional Ad Valorem tax. This revenue is normally General Fund revenue.

b. 3815 Revenue Sharing; Other Taxes—funds appropriated annually by the State Legislature to fulfill its constitutional obligation to compensate local school systems partially for tax revenue lost due to homestead exemptions on Ad Valorem taxes other than the constitutional Ad Valorem tax. This revenue is normally revenue to the fund associated with the particular Ad Valorem tax.

c. 3820 Revenue Sharing; Excess Portion—a distribution made by the Tax Collector to qualifying taxing authorities with remaining state revenue-sharing funds after all other required distributions have been made. This revenue is normally General Fund revenue.

d. 3890 Other Revenue in Lieu of Taxes—other commitments or payments made by the state in lieu of taxes.

4. 3900\* Revenue for/on Behalf of LEA—commitments or payments made by a state for the benefit of the LEA, or contributions of equipment or supplies. Such revenue includes the payment to a pension fund by the state on behalf of an LEA employee for services rendered to the LEA and a contribution of capital assets by a State unit to the LEA.

a. 3910 Employer's Contribution to Teachers Retirement—direct payments made by the state to the Teachers Retirement System for persons receiving PIP salaries. It is recorded by debiting retirement expenditures and crediting this account. This revenue is a General Fund Revenue.

b. 3990 Other Revenue for/on Behalf of the LEA—other commitments or payments made by the state for the benefit of the LEA.

#### D. 4000 Revenue from Federal Sources

1. 4100\* Unrestricted Grants-in-Aid Direct from the Federal Government—revenues direct from the Federal Government as grants to the LEA; this revenue can be used for any legal purpose desired by the LEA, without restriction.

a. 4110 Impact Aid Fund—amounts paid directly by the Federal Government to the LEA to supplement the education of children from families stationed at military bases who attend the LEA's public schools under P. L. 81-874. This revenue is normally a General Fund Revenue.

b. 4190 Other Unrestricted Grants—Direct—other revenues direct from the Federal Government other than those programs described above.

2. 4200\* Unrestricted Grants-in-Aid from the Federal Government Through the state—revenues from the Federal Government through the state as grants that can be used for any legal purpose desired by the LEA, without restriction.

a. 4210 Flood Control—amounts received from the Federal Government and distributed by the state to the LEA for flood control.

b. 4290 Other Unrestricted Grants through state—other revenues received from the Federal Government through the state other than those classified above.

3. 4300\* Restricted Grant-in-Aid Direct from the Federal Government—revenue direct from the Federal Government as grants to the LEA; the revenue may be used for a categorical or specific purpose. If such money is not

completely used by the LEA, it usually is returned to the governmental unit.

a. 4310 Federally Affected Areas—Capital Outlay (P. L. 81-815)—amounts paid directly by the Federal Government to the LEA for purchase of capital assets under provisions of P. L. 81-815. This revenue is normally a Special Revenue Fund revenue, since an accounting must be made to demonstrate appropriate use of the proceeds received.

b. 4330 JROTC—amount paid directly to the LEA for operation of a Junior Reserve Officer Training Corps (JROTC) program at schools in the district. This is revenue to the fund that pays the expenditures of the JROTC program.

c. 4340 Headstart Program—amount paid directly to the LEA for operation of the Headstart program in the district. This is revenue to the fund that pays the expenditures of the Headstart program.

d. 4390 Other Restricted Grants—direct funds received from the Federal Government other than those shown above.

4. 4500\* Restricted Grants-in-Aid from the Federal Government through the state—revenues from the Federal Government through the state as grants to the LEA; this revenue must be used for a categorical or specific purpose.

a. 4510 Career and Technical Education—federal funds granted to the local education agency and administered by the state under the Carl D. Perkins Vocational Act Education Program. These monies are reimbursement type grants.

b. 4515 School Food Service—all federal funds administered by the state and granted to the School Food Service Department for subsidies for all student meals in the National School Lunch and School Breakfast Programs, Summer Food Service Program, Child and Adult Care Food Program, and the Nutrition, Education, and Training Program. This revenue also includes funds from the Cash in Lieu of Commodities Program. The value of USDA commodities received should be recorded in 4220 Value of USDA Commodities.

c. 4520 Adult Basic Education—all federal funds administered by the state and granted to the LEA for purposes of providing Adult Basic Education (ABE).

d. 4530 Special Education—all federal funds administered by the state and granted to the LEA for students identified as being mentally or physically disabled.

i. 4531 IDEA, Part B—federal funds administered by the state and granted to the LEA to provide special education and related services to children ages 3 to 21 years old with disabilities in accordance with the Individuals with Disabilities Education Act (IDEA). This revenue is generally a Special Revenue Fund revenue.

ii. 4532 IDEA, Preschool—federal funds administered by the state and granted to the LEA to provide special education and related services to preschool children ages 3 to 5 years old with disabilities in accordance with the Individuals with Disabilities Education Act (IDEA). This revenue is generally a Special Revenue Fund revenue.

iii. 4534 IDEA, Part C—Infant/Toddler—federal funds administered by the state and granted to the LEA to serve infants and toddlers through age 2 with developmental delays or who have diagnosed physical or mental conditions

with high probabilities of resulting in developmental delays under the Individuals with Disabilities Education Act (IDEA). This revenue is generally a Special Revenue Fund revenue.

iv. 4535 Other Special Education Programs—all other federally funded program grants administered by the State and granted to the LEA for special education purposes, other than those described above. This revenue is generally a Special Revenue Fund revenue.

e. 4540 No Child Left Behind (NCLB)—federal funds administered by the State and granted to the LEA for programs for economically and educationally deprived school children.

i. 4541 Title I Grants to Local Educational Agencies—federal funds administered by the state to schools with high numbers or percentages of economically and educationally deprived children to help ensure that all children meet challenging state academic content and student academic achievement standards; the funds supplement rather than supplant activities that are state or locally mandated. This revenue is normally a Special Revenue Fund revenue.

ii. 4542 Title I, Part C, Migrant Education Basic State Grant Program—federal funds administered by the State to provide programs to meet the special education needs of children of migratory agricultural workers and migratory fishers, needs that have resulted from their migratory lifestyles or history. This revenue is normally a Special Revenue Fund revenue.

iii. 4544 Title IV, Part A – Safe and Drug Free Schools and Communities State Grants—federal funds administered by the state to support programs that prevent violence in and around schools; that prevent the illegal use of alcohol, tobacco, and other drugs; that involve parents and communities; and that are coordinated with related federal, state, school and community efforts and resources to foster a safe and drug-free learning environment that supports student academic achievement. This revenue is normally a Special Revenue Fund revenue.

iv. 4545 Title II, Part A—improving Teacher Quality State—Grants—Federal funds administered by the state increase academic achievement by improving teacher and principal quality. This revenue is normally a Special Revenue Fund revenue.

v. 4547 Title III, Part A—English Language Acquisition Grant—Federal funds administered by the state to help ensure that children, who are limited English proficient, develop high levels of academic attainment in English. This revenue is normally a Special Revenue Fund revenue.

vi. 4548 Title IV, Part B—Century Community Learning Centers—federal funds administered by the state to provide opportunities for academic enrichment to help students in grades K through 12, particularly students who attend low-performing schools, to meet state and local student academic achievement standard. This revenue is normally a Special Revenue Fund revenue.

vii. 4549 Title IV, Part B—Rural Education Achievement Program (REAP)—federal funds administered by the state to assist small, high-poverty rural school districts meet the mandates of No Child Left Behind. This revenue is normally a Special Revenue Fund revenue.

f. 4550 Title I, Part A—School Improvement 1003(a) and 1003(g)—Federal funds administered by the state to address the needs of schools in improvement, corrective action, and restructuring, in order to improve student achievement. This revenue is normally a Special Revenue Fund revenue.

i. 4551 Title II, Part D—Federal funds administered by the state to improve student achievement through the use of technology in elementary and secondary schools by helping all students become technologically literate by the end of the eighth grade and, through the integration of technology with both teacher training and curriculum development, establishing research-based instructional methods that can be widely implemented. This revenue is normally a Special Revenue Fund revenue.

ii. 4559 Other NCLB Programs—all other federally funded program grants administered by the State and granted to the LEA under No Child Left Behind, other than those described above. This revenue is normally a Special Revenue Fund revenue.

g. 4560 Job Training Partnership Act (JTPA)—federal funds administered by the state under the Job Training Partnership Act Program. This revenue is generally a Special Revenue Fund revenue.

h. 4580 FEMA Disaster Relief—federal funds administered by the state to provide financial assistance to an LEA for repairs and/or rebuilding necessary after a natural disaster.

i. 4590 Other Restricted Grants through state—federal funds administered by the State other than those shown above.

5. 4800 Revenue in Lieu of Taxes—commitments or payments made out of general revenues by the federal government to the LEA in lieu of taxes it would have had to pay had its property or other tax base been subject to taxation by the LEA on the same basis as privately owned property or other tax base. Such revenue would include payment made for privately owned property that is not subject to taxation on the same basis as other privately owned property because of action by the federal governmental unit.

a. 4810 Loss of Taxes Because of Federal Housing Projects—federal payments in lieu of taxes made directly to the LEA because of the existence of a federally-funded housing project in the district, the location of which causes a loss of Ad Valorem tax revenue. This revenue is normally pro-rated to the funds that record the affected Ad Valorem tax revenues.

b. 4820 Sale of Timber, etc., on Federal Forest Reserves—federal payments in lieu of taxes made directly to the LEA because of the existence of a federal forest reserve in the district and for which the federal government has agreed to share a portion of the revenues derived from the sale of timber or other products contained thereon. This revenue is normally a General Fund Revenue.

c. 4890 Other Revenue in Lieu of Taxes—other revenue in lieu of taxes made directly to the LEA, other than those described above.

6. 4900 Revenue for/on Behalf of the LEA—commitments or payments made by the federal government for the benefit of the LEA, or contributions of

equipment or supplies. Such revenue includes a contribution of capital assets by a federal governmental unit to the LEA and foods donated by the federal government to the LEA. Separate accounts should be maintained to identify the specific nature of the revenue item.

a. 4910 Nonfood Assistance—federal assistance received in terms of non-cash and non-food type items granted directly to the LEA. This revenue is recorded by debiting the appropriate expenditure account that would have been charged had the LEA purchased the particular item and by crediting this account.

b. 4920 Value of USDA Commodities—federal assistance received by the School Food Service Department in terms of the stated value of United States Department of Agriculture commodities. This revenue is recorded by debiting the appropriate food account and by crediting this account.

c. 4990 Other Revenues for/on Behalf of the LEA—other commitments or payments made by the federal government for the benefit of the LEA or contributions of equipment or supplies, other than those described above.

#### E. 5000\* Other Sources of Funds

1. 5100 Issuance of Bonds—the proceeds from the sale of bonds.

a. 5110\* Bond Principal—used to record the face amount of bonds sold. This revenue is normally accounted for in the fund that will expend the proceeds from the debt issuance (e.g., Capital Projects Funds).

b. 5120 Accrued Interest and Premium on Bonds Sold—amounts received for accrued interest from the sale of bonds and/or that portion of the sales price of bonds in excess of their par value. This revenue is normally credited to the fund that is responsible for payment of the principal and interest on the debt and is recorded at the time of the sale.

2. 5200 Fund Transfers In—used to classify operating transfers from other funds of the district. These funds will not have to be replaced.

a. 5210 Transfer of Indirect Costs—amounts of indirect costs transferred from federal grants, usually to the General Fund.

b. 5220 Operating Transfers In—interfund transfers made by the LEA from one fund to another that does not carry a corresponding obligation on the receiving fund to repay the amount to the paying fund. This account is credited by the receiving fund, while the paying fund debits Operating Transfers Out in the Other Uses of Funds Section.

3. 5300 Proceeds from the Disposal of Real or Personal Property—proceeds from the disposal of school property or compensation for the loss of real or personal property. Any gain or loss on the disposal of property for proprietary or fiduciary funds is recorded in account 1930.

4. 5400 Loans Proceeds—proceeds from loans greater than 12 months. Usually reported in the fund in which expenditures of proceeds are made.

5. 5500 Capital Lease Proceeds—proceeds from capital leases

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## Chapter 9. Classification of Expenditures and Other Uses of Funds

### §901. Object Codes

A. Object codes necessary for reporting to the National Center for Education Statistics are marked with an asterisk.

B. This classification is used to describe the service or commodity obtained as the result of a specific expenditure. There are nine major object categories, each of which is further subdivided. Listed below are definitions of the object classes and selected sub-object categories.

C. 100\* Salaries—amounts paid to both permanent and temporary LEA employees, including personnel substituting for those in permanent positions. This expenditure includes gross salary for personal services rendered while on the payroll of the LEA's.

1. 110 Salaries of Regular Employees—full-time, part-time, and prorated portions of the costs for work performed by permanent employees of the LEA.

a. 111 Officials/Administrators/Managers—these are occupations requiring administrative personnel who set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the school system. Included in this category are superintendents of schools; assistant, deputy and associate superintendents; instructional coordinators, supervisors and directors; principals and assistant principals; and school business officials.

b. 112 Teachers—staff members assigned the professional activities of instructing pupils in courses in classroom situations for which daily-pupil attendance figures for the school system are kept. Included in this category are music, band, physical education, home economics, librarians, special education, etc.

c. 113 Therapists/Specialists/Counselors—staff members responsible for teaching or advising pupils with regard to their abilities and aptitudes, educational and occupational opportunities, personal and social adjustments. Included in this category are speech therapists, occupational therapists, physical therapists, guidance counselors, psychologists, social workers, assessment teachers/diagnosticians, and instructional specialists.

d. 114 Clerical/Secretarial—these are occupations requiring skills and training in all clerical-type work including activities such as preparing, transcribing, systematizing, or preserving written communication and reports, or operating such mechanical equipment as bookkeeping machines, typewriters and tabulating machines. Included in this category are bookkeepers, messengers, office machines operators, clerk-typist, stenographers, statistical clerks, dispatchers, and payroll clerks.

e. 115 Para-Professionals/Aides—staff members working with students under the direct supervision of a classroom teacher or under the direct supervision of a staff member performing professional-educational-teaching assignments or assisting in the transportation of students on a regular schedule. Included in this category are teacher aides, library aides, bus aides, etc.

f. 116 Service Workers—staff members performing a specialized service; included in this category are cafeteria workers, bus drivers, school security guards, custodians, etc.

g. 117 Skilled Crafts—occupations in which workers perform jobs that require special manual skill and a

thorough and comprehensive knowledge of the process involved in the work, which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Included in this category are mechanics, electricians, heavy equipment operators, carpenters, etc.

h. 118 Degreed Professionals—occupations requiring a high degree of knowledge and skills acquired through at least a baccalaureate degree or its equivalent. This classification normally includes nurses, architects, lawyers, accountants, etc.

i. 119 Other Salaries—other staff members other than those classified above.

2. 120 Salaries of Temporary Employees—full-time, part-time, and prorated portions of the costs for work performed by employees of the LEA who are hired on a temporary or substitute basis.

a. 121 Acting Employee—the cost of work performed by a person who is temporarily taking over the duties or position of a regular employee.

b. 122 Seasonal Employee—the cost of work performed by a person who is hired on a temporary basis usually not more than five months which is affected by or dependent on a certain time of year.

c. 123 Substitute Teacher—the cost of work performed by a person who is hired in place of a teacher. (This substitute replaces a teacher coded to object 112.)

d. 124 Substitute Employee, Other Than Teacher—the cost of work performed by a person who is hired in place of a regular employee (other than a teacher coded to object 112).

e. 129 Other Temporary Employee—temporary employees, other than those classified above.

3. 130 Salaries for Extra Work Performed—amounts paid to employees of the LEA in either temporary or permanent positions for work performed in addition to the normal work period (including overtime) for which the employee is compensated under regular salaries and temporary salaries above. The terms of such payment for overtime are a matter of State and local regulations and interpretation.

4. 140 Salaries for Sabbatical Leave—amounts paid by the LEA to employees on sabbatical leave.

5. 150 Stipend Pay—a one-time payment or allowance to regular employees to attend workshops or in service training programs.

6. 155 Non-Public Stipend Pay—a one-time payment or allowance to non-public instructional employees to attend workshops or in service training programs according to specific grant regulations.

D. 200\* Employee Benefits—amounts paid by the LEA on behalf of employees; these amounts are not included in the gross salary, but are in addition to that amount. Such payments are fringe benefit payments and, while not paid directly to employees, are, nevertheless, part of the cost of personal services. Such amounts must be distributed to each function according to the employee's assignment.

1. 210 Group Insurance—employer's share for current employees of any insurance plan. Group insurance for retirees should be reported under object code 270: Health Benefits.

2. 220 FICA Contributions—employer's share of Social Security payroll taxes collected under authority of the Federal Insurance Contributions Act (FICA) paid by the LEA.

3. 225 Medicare Contributions—employer's share of Medicare paid by the LEA.

4. 230 Retirement Contribution—employer's share of any State or local employee retirement system paid by the LEA, including the amount paid for employees assigned to federal programs.

a. 231 Louisiana Teachers' Retirement System Contributions (TRSL)

b. 233 Louisiana School Employees' Retirement System Contributions (LSERS)

c. 239 Other Retirement Contributions

5. 240 Educational Reimbursement—amounts reimbursed by the LEA to any employee (or university on behalf of an employee) qualifying for the reimbursement of educational expenditures based upon LEA policy. (Includes tuition, textbooks, testing fees and certification fees.) (Used with function 2200 Instructional Staff Services and 2800 Central Services.)

6. 245 Non-Public Educational Reimbursement—amounts reimbursed by the LEA to non-public employees (or university on behalf of a non-public employee) qualifying for the reimbursement of educational expenditures based upon specific grant regulations. (Includes tuition, textbooks, testing fees and certification fees.)

7. 250 Unemployment Compensation—amounts paid by the LEA to provide unemployment benefits for its employees.

8. 260 Worker's Compensation—amounts paid by the LEA to provide worker's compensation insurance and/or benefits for its employees. Salary payments for employees on worker's compensations should be charged to this code.

9. 270 Retiree Health Benefits—amounts paid by the LEA to provide health benefits for employees now retired and for whom benefits are paid.

10. 280 Severance Pay—amounts of unused leave paid by the LEA to its employees upon their retirement.

a. 281 Sick Leave Severance—amount of unused sick leave paid by the LEA to its employees upon their retirement.

b. 282 Annual Leave Severance—amount of annual leave paid by the LEA to its employees upon their retirement.

11. 290 Other Employee Benefits—employee benefits other than those classified above.

E. 300\* Purchased Professional and Technical Services—services which, by their nature, can be performed only by persons or firms with specialized skills and knowledge. While a product may or may not result from the transaction, the primary reason for the purchase is the service provided.

1. 310 Purchased Official/Administrative Services—services in support of the various policy-making and managerial activities of the LEA. Included are management consulting activities oriented to general governance or business and financial management of the LEA: school management support activities; election and tax assessing and collecting services. (Usually used with functions 2300

General Administration, 2400 School Administration, 2500 Business Services, and 2800 Central Services.)

a. 311 Assessor Fees—money paid to the tax assessor, who assesses property for taxation.

b. 312 Sheriff Fees—money paid to the local sheriff, who is charged with the collection and remittance of property taxes to the LEA.

c. 313 Pension Fund—monies deducted from the proceeds of property taxes for the payment of all pensions into the Pension Accumulation Fund (L.R.S 17:696).

d. 314 Sales Tax Collection Fees—money paid to another individual or other governmental body charged with the collection and remittance of sales and use taxes.

e. 315 State Tax Commission Fees—money paid to the Louisiana Tax Commission pursuant to a judgment upheld by the courts against a company that files suit to contest the correctness or legality of any final determination of its assessed valuations for taxation. The fee is an amount equal to 10 percent of the proceeds received (R.S. 47:1856f)

f. 316 Election Fees—money paid to other governmental agencies for expenses related to the election of school board members, as well as elections for the purpose of collecting tax revenues.

g. 317 Management Consultants—money paid to an individual or firm to study and evaluate the activities of the school system.

h. 319 Other Fees—official and administrative services, other than those classified above.

2. 320 Purchased Educational Services—services supporting the instructional program and its administration. Included would be curriculum improvement services, counseling and guidance services, library and media support, educational testing services and contracted instructional services. Also included would be payments to speakers to make presentations at workshops and in service training programs. This object code is usually used with functions 1000 Instruction, 2100 Pupil Support Services, and 2200 Instructional Staff Services.

3. 330 Other Purchased Professional Services—professional services which support the operation of the LEA, other than educational services. Included are medical doctors, lawyers, architects, auditors, accountants, therapists, audiologists, dieticians, editors, negotiations specialists, systems analysts, planners, and the like.

a. 331 Occupational/Physical Therapist Services—professional services contracted or paid by the LEA for treatment of an injury by physical activity, rather than with drugs, or for the treatment of mental ailments by work designed to divert the mind.

b. 332 Legal Services—professional services contracted or paid by the LEA to defend itself against lawsuits and to assist the LEA's in conforming with the law.

c. 333 Audit/Accounting Services—professional services contracted or paid by the LEA to examine and check the financial operations of the school system, as well as to provide assistance in keeping, analyzing and explaining accounts.

d. 334 Architect/Engineering Services—professional services contracted or paid by the LEA to design buildings, to draw up the plans, and generally to supervise the construction.

e. 335 Medical Services—Professional services contracted or paid by the LEA to provide medical services such as a physical for employees or for students that want to participate in athletics or to provide medical services in a school health clinic. Includes physicians, dentists, nurse practitioners, health unit, medical clinics, etc.

f. 339 Other Professional Services—professional services other than those classified above.

4. 340 Purchased Technical Services—services to the LEA which are not regarded as professional, but which require basic scientific knowledge, manual skills, or both. Included are data processing services, software support services, banking services, purchasing and warehousing services, graphic arts and the like. This object code is used usually with functions 1000 Instruction and 2000 Support Services.

F. 400\* Purchased Property Services—services purchased to operate, repair, maintain, and rent property owned or used by the LEA. These services are performed by persons other than LEA employees. While a product may or may not result from the transaction, the primary reason for the purchase is the service provided.

1. 410 Utility Services—expenditures for utility services other than energy services supplied by public or private organizations. Water and sewerage are included here. Telephone and internet services are not included here, but are classified under object 530 Communications. This object code is used with only function 2600 Operations and Maintenance of Plant Services.

a. 411 Water/Sewerage—expenditures for water/sewerage utility services from a private or public utility company.

2. 420 Cleaning Services—services purchased to clean buildings (apart from services provided by LEA employees). This object code is used with only function 2600 Operations and Maintenance of Plant Services.

a. 421 Disposal Services—expenditures for garbage pickup and handling not provided by LEA personnel.

b. 423 Custodial Services—expenditures to an outside contractor for custodial services.

c. 424 Lawn Care—expenditures for lawn and grounds upkeep, minor landscaping, nursery services and the like not provided by LEA personnel.

3. 430 Repairs and Maintenance Services—expenditures for repairs and maintenance services not provided directly by LEA personnel. This expenditure includes contracts and agreements covering the upkeep of buildings, upkeep of equipment, including computers and related technology, and portable building relocation expenses. Costs for renovating and remodeling are not included here but are classified under object 450 Construction Services.

4. 440 Rentals—costs for renting or leasing land, buildings, equipment, and vehicles.

a. 441 Renting Land and Buildings—expenditures for leasing or renting land and buildings for both temporary and long-range use by the LEA. This object code is used with function 2600 Operations and Maintenance of Plant Services or other appropriate programs.

b. 442 Rental of Equipment and Vehicles—expenditures for leasing or renting equipment or vehicles for both temporary and long-range use by the LEA.

This expenditure includes bus and other vehicle rental when operated by a local LEA, lease-purchase arrangements, and similar rental agreements. This object code is usually used with function 1000 Instruction or 2000 Support Services.

5. 450\* Construction Services—expenditures for constructing, renovating and remodeling paid to contractors. This object code includes the installation of new telephone lines or cable to provide internet access. This object is used only with function—4000 Facilities Acquisition and Construction Services.

6. 490 Other Purchased Property Services—purchased property services that are not classified above. Costs for telephone and internet services are not included here, but are included in object 530 Communications. This object code is used usually with function 2600 Operations and Maintenance of Plant Services.

G. 500\* Other Purchased Services—amounts paid for services rendered by organizations or personnel not on the payroll of the LEA (separate from professional and technical services or property services). While a product may or may not result from the transaction, the primary reason for the purchase is the service provided.

1. 510 Student Transportation Services—expenditures for transporting children to and from school and other activities, including field trips. This object code is used only with function 2700 Student Transportation Services.

a. 511\* Student Transportation Purchased from Another LEA within the state—amounts paid to other LEAs within the state for transporting children to and from school and school-related events. Expenditures for the rental of buses that are operated by personnel on the LEA payroll are not recorded here, but under object code 442 Rental of Equipment and Vehicles.

b. 512\* Student Transportation Purchased from Another LEA Outside the State—payments to other LEAs outside the state for transporting children to and from school and school-related events.

c. 513 Payments in Lieu of Transportation—payments to individuals who transport themselves or their own children or for reimbursement of transportation expenses on public carriers.

d. 519 Student Transportation Purchased from other Sources—payments to persons or agencies other than LEAs for transporting children to and from school and school-related events, including field trips.

2. 520 Insurance (Other than Employee Benefits)—expenditures for all types of insurance coverage, including property, liability, and fidelity. Insurance for group health should be recorded under object 200 Employee Benefits.

a. 521 Liability Insurance—insurance that pays and renders service on behalf of the LEA for loss arising out of its responsibility, due to negligence, to others as imposed by law or assumed by contract.

b. 522 Property Insurance—insurance that indemnifies the LEA with an interest in physical property for its loss or the loss of its income producing ability.

c. 523 Fleet Insurance—insurance that protects the LEA against any physical damage to its vehicles, property damage, liability and/or other coverages.

d. 524 Errors and Omissions Insurance—professional liability insurance that protects the LEA against legal liability resulting from negligence, errors

and omissions, and other aspects of rendering or failing to render professional service. It does not cover fraudulent, dishonest or criminal acts.

e. 525 Faithful Performance Bonds—a bond that will reimburse the LEA for loss up to the amount of the bond, sustained by the LEA by reason of any dishonest act of an employee or employees covered by the bond.

f. 529 Other Insurance—payments for insurance other than those classified above.

3. 530 Communications (Telephone, Internet and Postage)—expenditure for services provided by persons or businesses to assist in transmitting and receiving messages or information. This category includes cellular telephone and voice communication services, telephone and voicemail; data communications services to establish or maintain computer-based communications, networking and internet services; video communications services to establish or maintain one-way or two-way video communications via satellite, cable, or other devices; postal communications services to establish or maintain postage machine rentals, and postage, express delivery services, or couriers. Includes licenses and fees for services such as subscriptions to research materials over the Internet. Expenditures for software, both “downloaded” and “off-the-shelf” should be coded to object 615 or 735. (Usually used with functions 2200 Instructional Staff Services, 2300 General Administration, 2400 School Administration, 2500 Business Services, or 2600 Operations and Maintenance of Plant Services.)

4. 540 Advertising and Public Notices—expenditures for announcements in professional publications, newspapers or broadcasts over radio, television and the internet. These expenditures include advertising for such purposes as personnel recruitment, legal ads (i.e., board minutes), new and used equipment, sale of property, etc. Costs for professional advertising or public relations services should be charged to object 330 Other Purchased Professional Services.

5. 550 Printing and Binding—expenditures for job printing and binding, usually according to specifications of the LEA. This expenditure includes designing and printing forms and posters as well as printing and binding LEA publications. These payments are usually made to service providers outside of the LEA.

6. 560 Tuition—expenditures to reimburse other educational agencies for providing instructional services for students residing within the legal boundaries of the paying LEA including exam or certification fees required for admissions, course credit or certification and online course fees. This object code is used only with function 1000 Instruction.

a. 561\* Tuition to Other-In-State LEA's—tuition paid to other LEAs within the state.

b. 562\* Tuition to Other LEA's Outside the State—tuition paid to other LEAs outside the state.

c. 563\* Tuition to Private Sources—tuition paid to private schools.

d. 564\* Tuition to Educational Service Agencies Other Than an LEA Within the State—tuition paid to educational service providers other than an LEA within the state. Includes providers such as a college or university, career and technical school, cosmetology school, or other

specialized school that provides education or training for students to obtain course credits.

e. 565\* Tuition to Educational Service Agencies Other Than an LEA outside the State—tuition paid to educational service providers other than an LEA outside the state. Includes providers such as a college or university, career, and technical school, cosmetology school, or other specialized school that provides education or training for students to obtain course credits.

f. 566\* Tuition to Charter Schools—tuition paid to charter schools for services provided in accordance with the established charter for that school.

g. 567\* Tuition to School Districts for Voucher Payments—tuition paid to school districts for students using a state or local voucher program.

h. 569\* Other Tuition—tuition paid to other governmental organizations as reimbursement for providing specialized instructional services to students residing within the boundaries of the paying LEA.

7. 570 Food Service Management—expenditures for the operation of a local food service facility by other than employees of the LEA. Included are contracted services, such as food preparation, associated with the food service operation. Direct expenditures by the LEA for food, supplies, labor and equipment would be charged to the appropriate object codes. This object code is used only with function 3100 Food Service Operations.

8. 580 Travel—expenditures for transportation, meals, hotel, registration fees and other expenses associated with staff travel for the LEA according to district policy. Payments for per diem in lieu of reimbursements for subsistence (room and board) also are charged here. This object code is used with all functions except 5000 Other Sources of Funds.

a. 581 Mileage Allowance—a sum of money granted at stated intervals for travel expenses in lieu of reimbursement for actual travel expenses.

b. 582 Travel Expense Reimbursement—a sum of money paid for travel expenses at a specified amount per mile plus actual reimbursement for meals, hotel and other expenses including registration fees according to district policy.

c. 583 Operational Allowance—a sum of money granted to those individuals at stated intervals for the operation and maintenance of a vehicle.

9. 585 Non-Public Travel Expense Reimbursement—a sum of money paid for travel expenses of non-public employees at a specified amount per mile plus actual reimbursement for meals, hotel and other expenses, including registration fees according to district policy and grant regulations.

10. 590 Miscellaneous Purchased Services—expenditures for purchased services not otherwise classified in the 300 Purchased Professional and Technical Services, 400 Purchased Property Services, or 500 Other Purchased Services series of objects. This object code is used with all functions, except 5000 Other Sources of Funds.

a. 595 Interagency Purchased Services—any inter-district payments other than tuition or transportation should be classified here. This code identifies other payments for services made between a school district and other governmental entities. (Used primarily with function 2000.)

b. 596\* Services Purchased from Another LEA Within the State—payments to another LEA within the state for services rendered, other than tuition and transportation fees. Examples of such services are data processing, purchasing, nursing and guidance. When a question arises as to whether to code such payments to the 300 series of object code, purchased professional and technical services, or to this code, 596 should be used so that all inter-district payments can be eliminated when consolidating reports from multiple LEA's at state and federal levels. This code is used only with function 2000 Support Services.

c. 597\* Services Purchased from Another LEA outside the State—payments to another LEA outside the state for services rendered, other than tuition and transportation fees. Examples of such services are data processing, purchasing, nursing and guidance. When a question arises as to whether to code such payments to the 300 series of object codes or to this code, 597 Services Purchased from Another LEA within the State should be used so that all inter-district payments can be eliminated when consolidating reports at the federal level. This object code is used only with function 2000 Support Services.

H. 600\* Supplies—amounts paid for items that are consumed, worn out, or deteriorated through use; or for items that lose their identity through fabrication or incorporation into different or more complex units or substances. Refer to Appendix D for the criteria for distinguishing between a supply and an equipment item.

1. 610 Materials and Supplies—expenditures for all supplies (other than those listed below) for the operation of an LEA, including freight and cartage. A more thorough classification of supply expenditures is achieved by identifying the object with the function: for example, audiovisual supplies or classroom teaching supplies. This object code is used with all functions except 5000 Sources of Funds.

2. 615 Supplies-Technology Related—technology-related supplies includes supplies that are typically used in conjunction with technology-related hardware or software. Some examples are CDs, monitor stands, ink cartridges and storage media. (Equipment that has a cost lower than the school district's capitalization threshold should be coded here. Equipment that has a cost higher than the school district's capitalizations threshold should be coded to object 734. Software with a unit cost greater than the district's capitalization threshold should be coded to object 735.)

3. 620 Energy—expenditures for energy, including gas, oil, coal, gasoline, and services received from public or private utility companies.

a. 621 Natural Gas—expenditures for gas utility services from a private or public utility company. This object code is used with functions 2600 Operations and Maintenance of Plant Services, and 3100 Food Services Operations.

b. 622 Electricity—expenditures for electric utility services from a private or public utility company. This object code is used usually with functions 2600 Operations and Maintenance of Plant Services and 3100 Food Services Operations.

c. 626 Fuel—expenditures for gasoline and diesel purchased in bulk or periodically from a gasoline service station. This object code is used usually with functions 2600

Operations and Maintenance of Plant Services and 2700 Student Transportation Services.

d. 629 Other—expenditures for energy that cannot be classified in one of the foregoing categories.

4. 630 Food—expenditures for food used in the school food service program. This object code is used with only function 3100 Food Services Operations. Food used in instructional programs is charged under object code 610 Materials and Supplies.

a. 631 Purchased Food—food that is purchased from vendors rather than food received from the U.S. Department of Agriculture.

b. 632 Commodities—food that is passed through the State Department of Agriculture from the U.S. Department of Agriculture.

5. 640 Books and Periodicals—expenditures for books, textbooks and periodicals prescribed and available for general use, including reference books. This category includes the cost of workbooks, textbook binding or repairs, as well as textbooks that are purchased to be resold or rented. Also recorded here are the costs of binding or other repairs to school library books. This object code is used with all functions except 5000 Other Use of Funds.

a. 641 Library Books—a collection of books systematically arranged for reading or reference.

b. 642 Textbooks—books giving instructions in the principles of a subject of study or any book used as the basis or partial basis of a course of study.

c. 643 Workbooks—books for the use of students. They contain questions and exercises based on a textbook or course of study.

d. 644 Periodicals—publications appearing at regular intervals of more than one day, as a weekly magazine.

I. 700\* Property—expenditures for acquiring capital assets, including land or existing buildings; improvements of grounds; initial equipment; additional equipment; and replacement of equipment. (Primarily reported in Table III of the AFR.)

1. 710\* Land and Improvements—expenditures for the purchase of land and the improvements thereon. Purchases of air rights, mineral rights and the like are included here. Also included are special assessments against the LEA for capital improvements such as streets, curbs and drains. Not included here, but generally charged to object codes 450 Construction Services or 340 Purchased Technical Services as appropriate, are expenditures for improving sites and adjacent ways after acquisition by the LEA. This object code is used with only functions 4100 Site Acquisition services and 4200 Site Improvement Services.

2. 720\* Buildings—expenditures for acquiring existing buildings. Included are expenditures for installment or lease payments (except interest) that have a terminal date and that result in the acquisition of buildings, except payments to public school-housing authorities or similar agencies. This object code is used with only function 4500 Building Acquisition and Construction Services. Expenditures for the contracted construction of buildings, for major permanent structural alterations, and for the initial or additional installation of heating and ventilating systems, fire protection systems, and other service systems in existing buildings are recorded under object code 450 Construction

Services. Buildings built and alterations performed by the LEAs own staff are charged to object code 100 Salaries, 200 Employee Benefits, 610 Materials and Supplies, and 730 Equipment, as appropriate.

3. 730\* Equipment—expenditures for initial, additional, and replacement items of equipment, such as machinery, furniture and fixtures, computers and vehicles. Refer to the criteria for distinguishing between a supply and an equipment item.

a. 731 Machinery—expenditures for equipment usually composed of a complex combination of parts (excluding vehicles). An example would be a lathe, drill press, or printing press.

b. 732 Vehicles—expenditures for equipment used to transport persons or objects. Examples are automobiles, trucks, buses, station wagons, and vans.

c. 733 Furniture and Fixtures—expenditures for equipment used for sitting; as a support for writing and work activities; and as storage space for material items. This object code is used with all functions, except 5000 Other Use of Funds.

d. 734 Technology Related Hardware—expenditures for technology-related equipment and technology infrastructure. These costs include those associated with the purchase of network equipment, servers, PCs, printers, other peripherals, and devices. Equipment that has a cost lower than the school district's capitalization threshold should be coded to supplies. (Used with all functions, but primarily used with 2840.)

e. 735 Technology Software—expenditures for purchased software used for educational or administrative purposes that exceed the capitalization threshold of \$5000. Purchases of multi-year software licenses should be considered on a per-year cost when applying this threshold. Software costs that are below the district's capitalization threshold should be coded to supplies (object 615). (Used with all functions, but primarily used with 2840.)

f. 739 Other Equipment—expenditures for all other equipment not classified elsewhere in the 730 Equipment.

4. 740 Depreciation—the portion of the cost of a capital asset that is charged as an expense during a particular period. In accounting for depreciation, the cost of a capital asset, less any salvage value, is apportioned over the estimated service life of such an asset, and each period is charged with a portion of such cost. Through this process, the cost of the asset is ultimately charged off as an expense.

5. 750 Intangible Assets—expenditures for acquiring intangible assets. Intangible assets include easements (the right to use land for a specific purpose), land use rights, patents, and trademarks.

6. 760\* Infrastructure – Expenditures for purchased infrastructure assets by the school district. These items include water/sewer systems, roads, bridges, and other assets that have significantly longer useful lives than other capital assets. (Used with functions 4000 only but primarily with functions 4200 and 4700.)

J. 800 Debt Service and Miscellaneous—amounts paid for goods and services not otherwise classified above.

1. 810\* Dues and Fees—expenditures or assessments for membership in professional or other organizations or payments to a paying agent for services rendered. (Used with functions 1000 Instruction and 2000 Support Services.)

2. 820 Judgments Against the LEA—expenditures from current funds for all judgments (except as indicated below) against the LEA that are not covered by liability insurance, but are of a type that might have been covered by insurance. Only amounts paid as the result of court decisions are recorded here. Judgments against the LEA resulting from failure to pay bills or debt service are recorded under the appropriate expenditure accounts, as though the bills or debt service had been paid when due. This object code is used with function 2300 General Administration.

3. 830 Debt-Related Expenditure/Expenses—expenditures for interest on bonds or notes. (Used with function 2500 Business Services and 5100 Debt Service.)

a. 831\* Redemption of Principal – Expenditures to retire bonds (including current and advance refunding) and long-term loans. (Used only with functions 5100.)

b. 832\* Interest—expenditures for interest on bonds or notes, including lease purchase arrangements. (Used only with functions 5100.)

c. 833 Bond Issuance and Other Debt-Related Costs—expenses in connection with bond and other debt issuance costs, including lease-purchase debt issuance costs. Include both amortized and unamortized costs. Included are amortized deferred gain and loss amounts in connection with the defeasance of bonds. This code is used in proprietary and fiduciary funds only, as well as in the government-wide financial statements. (Used only with function 5100.)

d. 834 Amortization of Premium and Discount on Issuance of Bonds—expenses amortized as debt premium and/or discount in connection with the issuance of debt. This account is used in proprietary and fiduciary funds only.

e. 835 Interest on Short-Term Debt—expenditures for interest on short-term debt or anticipation notes. (Used only with function 2510 Fiscal Services.)

4. 890 Miscellaneous Expenditures—amounts expended for goods or services not properly classified in one of the objects included above.

5. 895 Miscellaneous Non-Public Expenditures—amounts expended for goods or services for non-public employees not properly classified in one of the objects included above.

K. 900 Other Uses of Funds—this series of object codes is used to classify transactions that are not properly recorded as expenditures to the LEA, but require control and reporting by the school district.

1. 915 Payments to Escrow Agents for Defeasance of Debt—funds transferred to an escrow agent to be held in trust for the repayment of refinanced bonds. (Use only with function 5100.)

2. 925 Discount on Issuance of Bonds—proceeds from that portion of the sale of bonds below their par value. The discount represents an adjustment of the interest rate and will be amortized using expenditure object account 834. (Use only with function 5100.)

3. 930 Interfund Transactions—transactions between funds that should not be classified as an expenditure. This object code is used with all functions.

a. 931 Residual Fund Transfers—nonrecurring or non-routine transfers between funds: for example, the transfer of residual balances of discontinued funds to the General Fund or Debt Service Fund.

b. 932 Operating Transfers Out—transactions that withdraw money from one fund to another without recourse: for example, legally authorized transfers from a fund receiving revenue to the fund through which the resources are to be expended.

c. 933 Indirect Costs—the transfer of funds from Federal, state or local grant programs (according to grant regulations) to the General Fund for those indirect costs which are not readily identifiable, but are, nevertheless, incurred for the joint benefit of those activities and other activities and programs of the organization.

4. 940 Local Revenue Transfers Out—the transfer of local revenue to another LEA as required through the Minimum Foundation Program (MFP). Typically used to record a local revenue transfer to a charter school from the district of prior jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:468 (March 2000), amended LR 36:1516 (July 2010).

### §903. Function Codes

A. Function codes necessary for reporting to the National Center for Education Statistics are marked with an asterisk.

B. The function describes the activity for which a service or material object is acquired. The functions of an LEA are classified into five broad areas: Instruction, Support Services, Operation of Non-Instructional Services, Facilities Acquisition and Construction, and Debt Service/Other Outlays. Functions are further broken down into subfunctions and areas of responsibility.

C. 1000\* Instruction—activities dealing directly with the interaction between teachers and students. Teaching may be provided for students in a school classroom, in another location such as a home or hospital, and in other learning situations such as those involving co-curricular activities. It may also be provided through some other approved medium such as television, radio, computer, internet, multimedia telephone and correspondence, that is delivered inside or outside the classroom or in other teacher-student settings. Included here are the activities of aides or classroom assistants of any type (clerks, graders, teaching machines, etc.) who assist in the instructional process. If proration of expenditures is not possible for department chairpersons who also teach, include department chairpersons who also teach in instruction. Full-time department chairperson's expenditures should be included only in function 2490. Functions and subfunctions must be used with the appropriate fund type to properly identify the expenditure activity.

1. 1100 Regular Programs, Elementary and Secondary—activities that provide students in grades K-12 with learning experiences to prepare them for activities as citizens, family members, and non career and technical workers.

a. 1105 Kindergarten—the activities associated with children for the year immediately preceding the first grade. (Pre-kindergarten programs should be include in function 1530.)

b. 1110 Elementary—the activities associated with children from first grade through and including the eighth grade.

c. 1130 Secondary—the activities associated with children from the ninth grade through and including the twelfth grade.

2. 1200 Special Education Programs—specially designed instruction to meet the unique needs and abilities of disabled or gifted children during regular school day, extended day, and summer school.

a. 1210 Special Education—specifically designed instruction provided at no cost to the parents that meets the unique needs of a student with a disability. Special education includes instruction in the classroom, in the home, in hospitals, institutions and other settings, physical education, travel, training and career and technical education.

i. 1211 Special Education: Classroom Teacher—provides instruction to students with disabilities in a core academic subject.

ii. 1212 Special Education: Support Classroom Teacher—provides direct assistance to students with disabilities (e.g., tutoring, reinforcement of content provided in the general education setting) in segregated settings (e.g., resource class setting, self-contained classroom), but the students with disabilities receive their instruction on core academics subjects from a NCLB highly qualified general education teacher.

iii. 1213 Special Education: Paraprofessional Training Unit Teacher—provides instructional support; must work under the direct supervision of a highly qualified teacher.

iv. 1214 Special Education: Adaptive Physical Education Teacher—provides students' fitness, gross motor, and perceptual motor activities so that students can reach their fullest potential through physical activity.

v. 1215 Special Education: Work Study Coordinator/Job Coach—serves as an employment training specialist in the educational setting and is responsible for planning and conducting special education work and study programs for students with disabilities who are transitioning into the work force. Job coaches specialize in helping workers with disabilities perform the tasks of their jobs successfully, including providing intensive monitoring, training, assessment, and support workers with special needs and facilitating healthy working relationships between management and co-workers.

vi. 1216 Special Education: Pre-School Classroom Teacher—provides preschool activities and instruction to students with disabilities.

b. 1220 Gifted and Talented—students, children, or youth who give evidence of high achievement capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who need services or activities not ordinarily provided by the school in order to fully develop those capabilities.

3. 1300 Career and Technical Education Programs—activities that provide students with the opportunity to develop the knowledge, skills and attitudes needed for employment in an occupational area.

a. 1310 Agriculture—activities that enable students to acquire the background, knowledge, and skills necessary to enter a wide range of agriculturally related occupations.

b. 1340 Family and Consumer Sciences—activities that enable students to acquire knowledge and develop

understanding, attitudes, and skills relevant to personal, home, and family life, and to emerging related occupations.

c. 1350 Trade and Industry—activities that develop a students' understanding about all aspects of industry and technology. These aspects include experimenting, designing, constructing, and evaluating; using tools, machines, materials; and using processes that may help individuals make informed and meaningful occupational choices, or that may prepare them to enter advanced trade and industrial or technical educational programs.

d. 1360 Business and Administration—activities that prepare students for careers in business-related areas such as administrative support, accounting, management and supervision.

e. 1370 Health Science—activities that enable students to acquire the background, knowledge and skills necessary for careers in health-related fields, such as nursing, pharmacy and emergency care.

f. 1390 Other Career and Technical Programs—other activities that provide students with the opportunity to develop the knowledge, skills, and attitudes needed for employment in a variety of occupational areas, including, but not limited to, Marketing, Technology, Oracle Internet Academy, Finance Academy, Travel and Tourism Academy and Information Technology Academy.

4. 1400 Other Instructional Programs—elementary and secondary: activities that provide students in grades K-12 with learning experiences not included in 1100 Regular Programs.

a. 1410 Co-Curricular Activities—school sponsored activities, under the guidance and supervision of the LEA staff, designed to provide students such experiences as motivation, enjoyment, and improvement of skills. Co-curricular activities normally supplement the regular instructional program and include such activities as band, chorus, choir, speech and debate. Also included are student-financed and managed activities, such as chess club, senior prom, Future Farmers of America, senior class, etc.

b. 1420 Athletics—school sponsored activities, under the guidance and supervision of LEA staff that provide opportunities for students to pursue various aspects of physical education. Athletics normally involve competition between schools and frequently involve offsetting gate receipts or fees.

c. 1440 Driver Education Programs—activities that provide students with instruction in learning to drive an automobile.

d. 1450 JROTC—activities that provide students learning experiences related to the Junior Reserve Officer Training Corps (JROTC) program.

e. 1460 After School Programs—programs that offer a variety of learning recreational, social and enrichment activities in a structured environment, taking place before-school, after-school, evenings, weekends, holidays and summertime. After school is meant to be an all-inclusive term for youth development programming that occurs in a setting when students are not in school. These settings include: center-based, school-based and other formal before and after-school arrangements for students, as well as summer programming.

f. 1470 Summer School Programs—activities during the summer to enable students to schedule courses to

enrich their experiences, to take new subjects, and to enable students who have failed in subjects to remove deficiencies. LEAs are required to provide summer schools for LEAP remediation. They may also provide remediation for the GEE or credit recovery during the summer. Summer schools must be approved by the Louisiana Department of Education.

g. 1480 Alternative School Programs – Activities for students assigned to alternative campuses, centers, or classrooms designed to improve behavior and/or provide an enhanced learning experience. Typically, alternative education programs are designed to meet the needs of students that cannot be addressed in a traditional classroom setting.

h. 1490 Other—activities that provide students with learning experiences not included above.

5. 1500 Special Programs—activities primarily for students having special needs. These programs include pre-kindergarten, culturally different students with learning disabilities, bilingual students, and special programs for other types of students.

a. 1510 No Child Left Behind (NCLB)—activities for economically and educationally deprived students whose background is so different from that of most other students that they need additional opportunities beyond those provided in the regular educational program.

b. 1520 English Language Acquisition Group (Title III)—activities for students from homes in which the English language is not the primary language spoken.

c. 1530 Pre-Kindergarten Programs—activities associated with children of any age span below kindergarten.

d. 1531 Head Start Program—activities associated with children attending Head Start programs in the local school districts.

6. 1600 Adult Education and Literacy Programs—activities that will enable adults to acquire the basic skills necessary to function in today's society so that they can benefit from the completion of secondary school, enhanced family life, attaining citizenship and participating in job training and retraining programs.

7. 1700 Community/Junior College Education Programs—deleted; maintained only for historical purposes

D. 2000 Support Services—support services provide administrative, technical (such as guidance and health), and logistical support to facilitate and enhance instruction. These services exist as adjuncts for fulfilling the objectives of instruction, community services and enterprise programs, rather than as entities within themselves.

1. 2100\* Pupil Support Services—activities designed to assess and improve the well-being of students and to supplement the teaching process.

a. 2110 Attendance Social Work Services—activities designed to improve student attendance at school that attempt to prevent or solve student problems involving the home, the school, and the community.

i. 2111 Supervision of Attendance and Social Work Services—activities associated with directing, managing and supervising attendance and social work.

ii. 2112 Attendance Services—activities such as promptly identifying nonattendance patterns, promoting improved attitudes toward attendance, analyzing causes of nonattendance, acting early on nonattendance problems, and

enforcing compulsory attendance laws. Specific activities may include truancy and local law enforcement services.

iii. 2113 Social Work Services—activities such as investigating and diagnosing student problems arising out of the home, school, or community; providing casework and group work services for the child, parent, or both; interpreting the problems of students for other staff members; and promoting modification of the circumstances surrounding the individual student and related to his or her problem.

iv. 2114 Student Records Services—activities of acquiring and maintaining records of school attendance, location of home, family characteristics, and census data. Portions of these records become a part of each student's cumulative record, which is sorted and stored for teacher and guidance information. Pertinent statistical reports are prepared under this function, as well.

v. 2119 Other Attendance and Social Work Services—attendance and social work services other than those described above.

b. 2120 Guidance Services—activities involving counseling with students and parents; consulting with other staff members on learning problems; evaluating the abilities of students; assisting students as they make their own educational and career plans and choices; assisting students in personal and social development; providing referral assistance; and working with other staff members in planning and conducting guidance programs for students.

i. 2121 Supervision of Guidance Services—activities associated with directing, managing and supervising guidance services.

ii. 2122 Counseling Services—activities concerned with the relationship among one or more counselors and one or more students as counsees, among students and students, and among counselors and other staff members. These activities are designed to help the student understand his or her educational, personal, and occupational strengths and limitations; relate his or her abilities, emotions, and aptitudes to educational and career opportunities; utilize his or her abilities in formulating realistic plans; and achieve satisfying personal and social development.

iii. 2123 Appraisal Services—activities that assess student characteristics, which are used in administration, instruction, and guidance, and that assist the student in assessing his or her purposes and progress in career and personality development.

iv. 2124 Information Services—activities for disseminating educational, occupational, and personal social information to help acquaint students with the curriculum and with educational and career and technical opportunities and requirements. Such information might be provided directly to students through activities such as group or individual guidance, or it might be provided indirectly to students, through staff members or parents.

v. 2125 Record Maintenance Services—activities for compiling, maintaining, and interpreting cumulative records of individual students, including systematic consideration of such factors as home and family background, physical and medical status, standardized test results, personal and social development, and school performance.

vi. 2126 Placement Services—activities that help place students in appropriate situations while they are in school. These placements could be educational situations, part-time employment while they are in school, and appropriate educational and occupational situations after they leave school. These activities also help ease the student's transition from one educational experience to another. The transition may require, for example, admissions counseling, referral services, assistance with records, and follow-up communications with employers.

vii. 2129 Other Guidance services—guidance services that cannot be classified above.

c. 2130 Health Services—physical and mental health services that are not direct instruction. Included are activities that provide students with appropriate medical, dental, and nursing services.

i. 2131 Supervision of Health Services—activities associated with directing and managing health services.

ii. 2132 Medical Services—activities concerned with the physical and mental health of students, such as health appraisals, including screening for vision, communicable diseases, and hearing deficiencies; screening for psychiatric services, periodic health examinations; emergency injury and illness care; and communications with parents and medical officials.

iii. 2133 Dental Services—activities associated with dental screening, dental care, and orthodontic activities.

iv. 2134 Nursing Services—activities associated with nursing, such as health inspection, treatment of minor injuries, and referrals for other health services.

v. 2139 Other Health Services—health services not classified above.

d. 2140 Psychological and Educational Assessment Services—activities concerned with administering psychological tests and interpreting the results; gathering and interpreting information about student behavior; working with other staff members in planning school programs to meet the special needs of students as indicated by psychological tests and behavioral evaluation; and planning and managing a program of psychological services, including psychological counseling for students, staff and parents.

i. 2141 Supervision of Psychological Services—directing, managing and supervising the activities associated with psychological services.

ii. 2142 Psychological Testing Services—activities concerned with administering psychological tests, standardized tests, and inventory assessments. These tests measure ability, aptitude, achievement, interests and personality. Activities also include the interpretation of these tests for students, school personnel, and parents.

iii. 2143 Psychological Counseling Services—activities that take place between a school psychologist and one or more students as counsees in which the students are helped to perceive, clarify, and solve problems of adjustment and interpersonal relationships.

iv. 2144 Psychotherapy Services—activities that provide a therapeutic relationship between a qualified mental health professional and one or more students, in which the

students are helped to perceive, clarify, and solve emotional problems.

v. 2145 Educational Diagnostic Services—activities that identify and design interventions that address the academic and behavior needs of struggling students. Other activities include administering and interpreting assessments that will assist in identifying educational strengths and weaknesses of students who may be in need of special education services.

vi. 2149 Other Psychological Services—other activities associated with psychological services not classified above.

e. 2150 Speech Pathology and Audiology Services—activities that identify, assess, and treat children with speech, hearing, and language impairments.

i. 2151 Supervision of Speech Pathology and Audiology Services—activities associated with directing, managing and supervising Speech Pathology and Audiology services.

ii. 2152 Speech Pathology/Therapy Services—activities that identify children with speech and language disorders; diagnose and appraise specific speech and language disorders; refer problems for medical or other professional attention necessary to treat speech and language disorders; provide required speech treatment services; and counsel and guide children, parents, and teachers, as appropriate.

iii. 2153 Audiology Services—activities that identify children with hearing loss; determine the range, nature, and degree of hearing function; refer problems for medical or other professional attention appropriate to treat impaired hearing; treat language impairment; involve auditory training, speech reading (lip-reading), and speech conversation; create and administer programs of hearing conservation; and counsel children, parents, and teachers as appropriate.

iv. 2154 Interpretive Services—provides language interpretation and translation services to deaf and hard of hearing students.

v. 2159 Other Speech Pathology and Audiology Services—other activities associated with Speech Pathology and Audiology services not classified above.

f. 2160 Occupational Therapy-Related Services—services provided by a qualified occupational therapist to develop and enhance the independent physical functioning of students with disabilities. Occupational therapy services provided by schools are for educational purposes to enable a student with a disability to progress on his or her Individualized Education Program (IEP).

i. 2161 Occupational Therapist—assists students who have conditions that are mentally, physically, developmentally, or emotionally disabling. Occupational Therapists assist students to develop, recover, or maintain daily living and work skills.

g. 2165 Therapy—treatment of illness or disability.

i. 2166 Physical Therapy—services provided by a qualified physical therapist to develop and enhance the physical functioning of students with disabilities so the student can receive FAPE. Physical therapy services provided by schools are for education purposes to enable a student with a disability to progress on his/her IEP.

ii. 2167 Recreational Therapy—provides therapy to remediate functional activities, provide leisure education, for learning the skills related to leisure involvement, and help the child participate in recreation.

iii. 2168 Rehabilitation Therapy—services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability.

iv. 2169 Orientation and Mobility—services provided to blind and visually impaired students.

h. 2170 Support of Individual Special Needs Students—pupil Support activities designed to improve the well-being of the special needs student and facilitate the student's ability to participate and receive services within his/her prescribed educational program. (e.g., special education child-specific paraprofessional)

i. 2180 Parental/Family Involvement—activities providing opportunities for parents/guardians to learn about the intellectual and developmental needs of their children at all ages and to participate constructively in their children's education. (Includes activities associated with the education of migrant and homeless children and youth, such as Homeless Liaison.)

j. 2190 Other Pupil Support Services—other support services to students not classified elsewhere in 2100 Pupil Support.

2. 2200\* Instructional Staff Services—activities associated with assisting the instructional staff with the content and process of providing learning experiences for students.

a. 2210 Improvement of Instructional Services—activities associated with directing, managing and supervising the improvement of instructional services.

i. 2211 Regular Education, Elementary/Secondary Programs—activities associated with directing, managing and supervising the improvement of instruction in grades K-12.

ii. 2212 Special Education Programs—activities associated with directing, managing and supervising the improvement of instruction for students identified as being mentally or physically disabled.

iii. 2213 Gifted and Talented—activities associated with directing, managing and supervising the improvement of instruction for students identified as being mentally gifted or talented.

iv. 2214 Other Special Programs—activities associated with directing, managing and supervising the improvement of instruction for students in special programs: NCLB Programs, Bilingual Programs, and Headstart/Early Childhood Programs.

v. 2215 Career and Technical Education—activities associated with directing, managing and supervising the improvement of instruction for students in the career and technical education programs.

vi. 2216 Adult/Continuing Education—activities associated with directing, managing and supervising the improvement of instruction for students in the adult or continuing education programs.

vii. 2219 Other Education Programs—activities associated with directing, managing and supervising the improvement of instruction for students in other programs not identified above.

b. 2220 Instruction and Curriculum Development Services—activities that aid teachers in developing the curriculum, preparing and utilizing special curriculum materials, and understanding and appreciating the various techniques that stimulate and motivate students.

c. 2230 Instructional Staff Training Services—activities associated with the professional development and training of instructional personnel. These include activities as in-service training, workshops, conferences, demonstrations, and courses for college credit (tuition reimbursement), and other activities related to the ongoing growth and development of instructional personnel. Training that supports the use of technology for instructions should be included in this code. The incremental costs associated with providing substitute teachers in the classroom (while regular teachers attend training) should be captured from this function code. All costs should be charged to this code, regardless of whether training services are provided internally or purchased from external vendors.

i. 2231 Regular Education-Elementary/Secondary Programs—activities associated with the professional development and training of instructional personnel in grades K-12.

ii. 2232 Special Education Programs—activities associated with the professional development and training of instructional personnel for students identified as being mentally or physically disabled.

iii. 2233 Gifted and Talented—activities associated with the professional development and training of instructional personnel for students identified as being mentally gifted or talented.

iv. 2234 Other Special Programs—activities associated with the professional development and training of instructional personnel for students in special programs: NCLB Programs, Bilingual Programs, and Early Childhood Programs.

v. 2235 Career and Technical Education—activities associated with the professional development and training of instructional personnel for students in the career and technical education programs.

vi. 2236 Adult/Continuing Education—activities associated with the professional development and training of instructional personnel for students in the adult or continuing education programs.

vii. 2237 Non-Public Programs—activities associated with the professional development and training of instructional personnel for students in non-public education programs.

viii. 2239 Other Education Programs—activities associated with the professional development and training of instructional personnel for students in other programs, not identified above.

d. 2240 Other Improvement of Instruction Services—activities for improving instruction other than those classified above.

e. 2250 Library/Media Services—activities concerned with the use of all teaching and learning resources, including hardware and content materials.

Educational media are defined as any devices, content materials, methods, or experiences used for teaching and learning purposes. These materials include printed and nonprinted sensory materials.

i. 2251 Supervision of Educational Media Services—activities concerned with directing, managing and supervising educational media services.

ii. 2252 School Library/Media Services—activities such as selecting, acquiring, preparing, cataloging, and circulating books and other printed materials; planning the use of the library by students, teachers and other members of the instructional staff; and guiding individuals in their use of library books, reference guides and materials, catalog materials, special collections and other materials, whether maintained separately or as a part of an instructional materials center. These activities include developing and acquiring library materials and operating library facilities. Textbooks are not charged to this function, but rather to function 1000 Instruction.

iii. 2259 Other Educational Media Services—educational media services other than those classified above.

f. 2290 Other Instructional Staff Services—services supporting the instructional staff not properly classified elsewhere in 2200 Instructional Staff Services.

3. 2300\* General Administration—activities concerned with establishing and administering policy for operating the LEA. These activities do not include the chief business official here, but include in 2500 Business Services.

a. 2310 Board of Education Services—activities of the elected body that has been created according to State law and vested with responsibilities for educational activities in a given administrative unit.

i. 2311 Supervision of Board of Education Services—activities concerned with directing and managing the general operation of the Board of Education. These include the activities of the members of the Board of Education, but does not include any special activities defined in the other areas of responsibility described below. They also include any activities of the district performed in support of the school district meeting. Also charged here are:

(a) the legal activities in interpretation of the laws and statutes and general liability situations,

(b) the activities of external auditors.

ii. 2312 Board Secretary/Clerk Services—activities required to perform the duties of the secretary or clerk of the Board of Education.

iii. 2313 Board Treasurer Services—activities required to perform the duties of treasurer of the Board of Education.

iv. 2314 Election Services—services rendered in connection with any school system election, including elections of officers and bond elections.

v. 2315 Tax Assessment and Collection Services—services rendered in connection with tax assessment and collection.

vi. 2316 Staff Relations and Negotiations Services—activities concerned with staff relations systemwide and the responsibilities for contractual negotiations with both instructional and non-instructional personnel.

vii. 2319 Other Board of Education Services—board of Education services that cannot be classified under the preceding areas of responsibility.

b. 2320 Executive Administrative Services—activities associated with the overall general administration of or executive responsibility for the entire LEA.

i. 2321 Office of Superintendent Services—activities performed by the superintendent in generally directing and managing all affairs of the LEA. These activities include all personnel and materials in the office of the chief executive officer.

ii. 2322 Community Relations Services—activities and programs developed and operated systemwide for improving school/community relations.

iii. 2323 State and Federal Relations Services—activities associated with developing and maintaining good relationships with State and Federal officials. The activities associated with grant procurement are included.

iv. 2324 Office of Assistant Superintendent Services—activities performed by deputy, associate, and assistant superintendents in assisting the superintendent in generally directing and managing all affairs of the LEA. Activities of the offices of the deputy superintendent should be charged here, unless the activities can be placed properly into a service area. In this case, they would be charged to service area direction in that service area.

v. 2329 Other Executive Administration Services—other general administrative services that cannot be recorded under the preceding functions.

4. 2400\* School Administration—activities concerned with the overall administrative responsibility for a school.

a. 2410 Office of the Principal Services—activities concerned with directing and managing the operation of a particular school. They include the activities performed by the principal while he/she supervises all operations of the school, evaluates the staff members of the school, assigns duties to staff members, supervises and maintains the records of the school, and coordinates school instructional activities with those of the LEA. These activities also include the work of the clerical staff in support of the teaching and administrative duties.

b. 2420 Office of the Assistant Principal Services—activities performed by assistant principals and other assistants concerned with directing and managing the operation of a particular school under the supervision of the principal.

c. 2430 School Chief Executive Officer Services—activities concerned with the oversight of all school administrative, operational and business functions of the school including, but not limited to, the supervision of school administrative personnel such as principals, assistant principals, etc. (Used primarily for charter schools.)

c. 2490 Other School Administration Services—other school administrative serves that cannot be recorded under the previous functions including graduation expenses and full-time department chairpersons. (Includes costs associated with the Southern Association Accreditation fees.)

5. 2500\* Business Services—activities concerned with paying, transporting, exchanging, and maintaining

goods and services for the LEA. Included are the fiscal and internal services necessary for operating the LEA.

a. 2510 Fiscal Services—activities concerned with the fiscal operations of the LEA. This function includes budgeting, receiving and disbursing, financial and property accounting, payroll, inventory control, internal auditing, investments and managing funds.

i. 2511 Supervising Fiscal Services—activities concerned with directing, managing and supervising the fiscal services area. They include the activities of the assistant superintendent, director, or school business official who directs and manages fiscal activities.

ii. 2512 Budgeting Services—activities concerned with supervising budget planning, formulation, control and analysis.

iii. 2513 Receiving and Disbursing Funds Services—fiscal activities including interest on short term loans not included in debt service, current audit of receipts, pre-audit of requisitions and purchase orders to determine whether the amounts are within the budgetary allowances and to determine that such disbursements are lawful expenditures of the school or LEA. Also includes the management of school funds.

iv. 2514 Payroll Services—activities concerned with periodically paying individuals entitled to remuneration for services rendered. Payments are also made for such payroll-associated costs as federal income tax withholding, retirement, and social security.

v. 2515 Financial Accounting Services—activities concerned with maintaining records of the financial operations and transactions of the school system. They include such activities as accounting and interpreting financial transactions and account records.

vi. 2516 Internal Auditing Services—activities concerned with verifying the account records, which includes evaluating the adequacy of the internal control system, verifying and safeguarding assets, reviewing the reliability of the accounting and reporting systems, and ascertaining compliance with established policies and procedures.

vii. 2517 Property Accounting Services—activities concerned with preparing and maintaining current inventory records of land, building, and equipment. These records are used in equipment control and facilities planning.

viii. 2519 Other Fiscal Services—fiscal services that cannot be classified under the preceding functions.

b. 2520 Purchasing Services—activities concerned with purchasing supplies, furniture, equipment, and materials used in schools or school system operations.

c. 2530 Warehousing and Distributing Services—activities concerned with receiving, storing, and distributing supplies, furniture, equipment, materials, and mail.

i. 2535 Warehouse Inventory Adjustment—activities involving adjustments to inventories reported on a consumption basis, in object code 610 Materials and Supplies, 630 Food, or 730 Equipment, or for lost or stolen equipment.

d. 2540 Printing, Publishing, and Duplicating Services—activities concerned with printing and publishing administrative publications such as annual reports, school directories, and manuals.

e. 2590 Other Business Services—other business support services not classified elsewhere in 2500 Business Services.

6. 2600\* Operations and Maintenance of Plant Services—activities concerned with keeping the physical plant open, comfortable, and safe for use, and keeping the grounds, buildings, and equipment in effective working condition and state of repair. These activities include the activities of maintaining safety in buildings, on the grounds, and in the vicinity of schools.

a. 2610 Supervision of Operation and Maintenance of Plant Services—activities involved in directing, managing and supervising the operation and maintenance of school plant facilities.

b. 2620 Operation and Maintenance of Buildings—activities concerned with keeping buildings clean and ready for daily use. They include operating the lighting and HVAC systems, minor repairs, and preventative maintenance. Also included are the costs of building rental and property insurance.

c. 2630 Care and Upkeep of Grounds—activities involved in maintaining and improving the land, (but not the buildings). These include landscaping, grounds maintenance and the like.

d. 2640 Care and Upkeep of Equipment—activities involved in maintaining equipment owned or used by the LEA. They include such activities as servicing and repairing furniture, machines, and movable equipment.

e. 2650 Vehicle Operation and Maintenance Services (other than student transportation vehicles)—activities involved in maintaining general purpose vehicles such as trucks, tractors, graders, and staff vehicles. These activities are considered regular or preventive maintenance: i.e., repairing vehicles; replacing vehicle parts; and cleaning, painting, greasing, fueling, and inspecting vehicles for safety.

f. 2660 Safety and Security—activities concerned with maintaining a safe and secure environment for students and staff.

i. 2661 Safety—activities concerned with maintaining a safe environment for students and staff, whether they are in transit to or from school, on a campus or administrative facility, or participating in school-sponsored events. These include costs associated with installing and monitoring school fire alarm systems and providing school crossing guards as well as other costs incurred in an effort to ensure the basic safety of students and staff. Costs associated with in-service training related to school safety, drug and violence prevention training, and alternative schools are not accounted for under this function.

ii. 2662 Security—activities concerned with maintaining a secure environment for students and staff, whether they are in transit to or from school, on a campus or administrative facility, or participating in school-sponsored events. These include costs associated with security plan development and implementation, installation of security monitoring devices (e.g., cameras, metal detectors), security personnel (e.g., campus police, security guards) purchase of security vehicles and communications equipment, and related costs. Costs associated with in-service training related to school safety, drug and violence prevention

training, and alternative schools should not be accounted for under this function code.

g. 2690 Other Operation and Maintenance of Plant Services—operations and maintenance of plant services that cannot be classified elsewhere in 2600 Operation and Maintenance of Plant Services.

7. 2700\* Student Transportation Services—activities concerned with conveying students to and from school, as provided by state and federal law. This function includes trips between home and school, and trips to school activities, including field trips.

a. 2710 Supervision of Student Transportation Services—activities pertaining to directing and managing student transportation services.

b. 2720 Regular Transportation—activities involving the transportation of regular education students.

i. 2721 Vehicle Operation—activities involved in operating vehicles for student transportation, from the time the vehicles leave the point of storage until they return to the point of storage. These activities include driving buses or other student transportation vehicles.

ii. 2722 Monitoring Services—activities concerned with supervising students in the process of being transported between home and school, and between school and school activities. Such supervision can occur while students are in transit, while they are being loaded and unloaded, and while the supervisor is directing traffic at the loading stations.

iii. 2723 Vehicle Servicing and Maintenance—activities involved in maintaining student transportation vehicles. It includes repairing vehicle parts; replacing vehicle parts; and cleaning, painting, fueling, and inspecting vehicles for safety.

c. 2730 Special Needs Transportation—activities involving the transportation of mentally and physically disabled students.

i. 2731 Vehicle Operation—activities involved in operating vehicles for student transportation, from the time the vehicles leave the point of storage until they return to the point of storage. These activities include driving buses or other student transportation vehicles.

ii. 2732 Monitoring Services—activities concerned with supervising students in the process of being transported between home and school, and between school and school activities. Such supervision can occur while students are in transit, which they are being loaded and unloaded, and while the supervisor is directing traffic at the loading stations.

iii. 2733 Vehicle Servicing and Maintenance—activities involved in maintaining student transportation vehicles. These include repairing vehicle parts; replacing vehicle parts; and cleaning, painting, fueling, and inspecting vehicles for safety.

d. 2790 Other Student Transportation Services—student transportation services that cannot be classified elsewhere in 2700 Student Transportation Services.

8. 2800\* Central Services—activities, other than general administration, that support each of the other instructional and supporting services programs. These activities include planning, research, development,

evaluation, information, staff, and administrative technology services.

a. 2810 Planning, Research, Development, and Evaluation Services—activities associated with conducting and managing programs of planning, research development, and evaluation for a school system on a system-wide basis.

i. Planning Services—activities concerned with selecting or identifying the overall, long-range goals and priorities of the organization or program. They also involve formulating various courses of action needed to achieve these goals. This process is done by identifying needs and relative costs and benefits of each course of action.

ii. Research Services—activities concerned with the systematic study and investigation of the various aspects of education, undertaken to establish facts and principles.

iii. Development Services—activities in the deliberate evolving process of improving educational programs such as using the products of research.

iv. Evaluation Services—activities concerned with ascertaining or judging the value or amount of an action or an outcome. This evaluation is conducted through the careful appraisal of previously specified data in light of the particular situation and the goals previously established.

b. 2820 Information Services—activities concerned with writing, editing, and preparation of other materials necessary to disseminate educational and administrative information to students, staff, managers, and the general public through direct mailing, the various news media, or personal contact.

i. 2821 Supervision of Information Services—activities concerned with directing, managing and supervising information services.

ii. 2822 Internal Information Services—activities concerned with writing, editing, and providing administrative information to students and staff.

iii. 2823 Public Information Services—activities concerned with writing, editing, and preparation of other materials necessary to disseminate educational and administrative information to the public through various news media or personal contact.

iv. 2824 Management Information Services—activities concerned with writing, editing, and preparation of other materials necessary to disseminate to management the information needed to make logical decisions about the operation of the LEA and information needed to make logical decisions about the community, state, and nation.

v. 2829 Other Information Services—activities concerned with function 2820 Information Services not classified above.

c. 2830 Personnel/Human Resource Services—activities concerned with maintaining efficient personnel for the school system. It includes such activities as recruitment and placement, non-instructional staff training, staff transfers, in-service training, health services, and staff accounting.

i. 2831 Personnel/Human Resource Director—activities concerned with directing, managing and supervising staff services. (Only personnel/human resource directors should be reported here.)

ii. 2832 Recruitment and Placement—activities concerned with employing and assigning personnel for the

LEA. (Personnel directors should be reported in function 2831.)

iii. 2833 Personnel/Human Resource Information—services rendered in connection with the systematic recording and summarizing of information relating to staff members employed by the LEA.

iv. 2834 Non-Instructional Personnel/Human Resource Training—activities associated with the professional development and training of non-instructional personnel. These include such activities as in-service training, seminars and conferences, continuing professional education, courses for college credit (tuition reimbursement), and other activities related to the ongoing growth and development of non-instructional personnel. The incremental costs associated with providing temporary employees to perform job duties while regular employees attend training should be captured in this function code. All costs should be charged to this code, regardless of whether training services are provided internally or purchased from external vendors.

v. 2835 Health Services—activities concerned with medical, dental, and nursing services provided for school district employees. Included are physical examinations, referrals, and emergency care.

vi. 2839 Other Personnel/Human Resource Services—personnel services that cannot be classified under the preceding functions.

d. 2840 Administrative Technology Services—activities concerned with supporting the school district's information technology systems, including supporting, administrative networks, maintaining administrative information systems and processing data for administrative and managerial purposes. These activities include expenditures for internal technology support, as well as support provided by external vendors using operating funds. These activities include costs associated with the administration and supervision of technology personnel, systems planning and analysis, systems application development, systems operations, network support services, hardware maintenance and support services, and other technology-related costs.

i. 2841 Technology Service Supervision and Administration—activities concerned with directing, managing and supervising data processing services.

ii. 2842 Systems Analysis and Planning—activities concerned with searching for and evaluating alternatives for achieving defined objectives, based on judgment and, wherever possible, on quantitative methods. Where applicable, these activities pertain to the development of data processing procedures or application to electronic data processing equipment.

iii. 2843 Systems Application Development—activities concerned with the preparation of a logical sequence of operations to be performed, either manually or electronically, in solving problems or processing data. These activities also involve preparing coded instructions and data for such sequences.

iv. 2844 Systems Operations—activities concerned with scheduling, maintaining, and producing data. These activities include operating business machines, data preparation devices, and data processing machines.

v. 2845 Network Support—activities concerned with network support services.

vi. 2846 Hardware Maintenance and Support—activities concerned with hardware maintenance and support services.

vii. 2847 Professional Development Costs for Administrative Technology Personnel—activities concerned with the professional development of administrative technology personnel.

viii. 2849 Other Technology Services—activities concerned with function 2840 Administrative Technology Services not described above.

e. 2890 Other Central Service Services—activities concerned with function 2800 Central Service Services, not described above.

9. 2900\* Other Support Services—all other support services not classified elsewhere in the 2000 series, Support Services.

E. 3000 Operation of Non-instructional Services—activities concerned with providing non-instructional services to students, staff or the community.

1. 3100\* Food Services Operations—activities concerned with providing food to students and staff in a school or LEA to meet the nutritional needs of children as defined in USDA child nutrition regulations. Activities may include the operation of breakfast, lunch, snacks, catering, and nutrition education.

i. 3110 Food Service District Office—activities associated with the overall general administration of the Child Nutrition Programs. (School Breakfast, School Lunch, After School Snacks, Catering and Nutrition Education.)

ii. 3111 Office of the District Supervisor—activities concerned with the directing and managing of the food service operations of all schools in the district. These activities include all personnel and materials in the district office.

iii. 3112 Office of the Assistant Supervisor—activities performed to assist the district supervisor in managing all food service activities of the LEA.

iv. 3120 Food Service Sites—activities concerned with food service operations for a school.

v. 3121 Office of the Site Manager—activities concerned with the directing and managing the food service operations of a particular school.

vi. 3122 Office of the Assistant Site Manager—activities performed by the assistant site manager concerned with directing and managing the food service operations of a particular school.

2. 3200\* Enterprise Operations—activities that are financed and operated in a manner similar to private business enterprises in which the stated intent is that the costs are financed or recovered primarily through user charges. Food services should not be charged here, but rather to function 3100 Food Services Operations. One example could be the LEA bookstore.

3. 3300\* Community Services Operations—activities concerned with providing community services to students, staff or other community participants. Examples of this function would be offering parental training or operating a community swimming pool, a recreation program for the elderly, or a child care center for working mothers.

F. 4000\* Facilities Acquisition and Construction Services—activities concerned with acquiring land and buildings, remodeling buildings, constructing buildings and additions to buildings, initially installing or extending service systems and other built-in equipment, and improving sites.

1. 4100 Land Acquisition—activities concerned with initially acquiring and improving land.

2. 4200 Land and Site Improvement—activities concerned with making permanent improvements to land, such as grading, fill and environmental remediation. Also includes activities concerned with making nonpermanent improvements or enhancements to building sites. These improvements include fencing, walkways, tunnels, and temporary landscaping.

3. 4300 Architecture and Engineering Services—the activities of architects and engineers related to acquiring and improving sites and improving buildings. Charges are made to this function for only those preliminary activities that may or may not result in additions to the LEA's property. Also include activities concerned with preparing and interpreting descriptions of specific space requirements for the various learning experiences of students to be accommodated in a building. These specifications are interpreted to the architects and engineers in the early stages of blueprint development. Otherwise, charge these services to 4100 Land Acquisition, 4200 Land Improvement, 4500 Building Acquisition and Construction, or 4600 Building Improvement, as appropriate.

4. 4500 Building Acquisition and Construction—activities concerned with buying or constructing buildings.

5. 4600 Building Improvements—activities concerned with building additions and with installing or extending service systems and other built-in equipment (i.e., includes roof replacement, wiring and plumbing, HVAC system; does not include painting).

6. 4700 Sixteenth Section Land Improvements—activities concerned with making improvements to sixteenth section lands. These activities may include re-seeding the land with trees, adding soil, cutting drainage canals, etc.

7. 4900 Other Facilities Acquisition and Construction Services—facilities acquisition and construction activities that cannot be classified above.

G. 5000 Debt Service and Other Uses of Funds—a number of outlays of governmental funds are not properly classified as expenditures, but still require budgetary or accounting control. These include debt service payments (principal and interest) and certain transfers of monies from one fund to another. These accounts are not used with the proprietary funds.

1. 5100\* Debt Service—activities related to servicing the debt of the LEA, including payments of both principal and interest. Normally, only long-term debt service (obligations exceeding one year) is recorded here. Interest on current loans (repayable within one year of receiving the obligation) is charged to function 2513 Receiving and Disbursing Funds Services. The receipt and payment of principal on those loans is handled as an adjustment to the balance sheet account 451 Loans Payable.

2. 5200 Fund Transfers—transactions that withdraw money from one fund and place it in another without recourse. Fund transfers budgeted to another functional activity, such as food service or transportation, are coded to the appropriate function and the object code 930 Interfund Transactions. Unless state law prohibits, revenues should be allocated to the appropriate funds when received, rather than accepted in the general fund and later transferred.

a. Interfund Loans are not recorded here, but are handled through the balance sheet accounts 131 Interfund Loans Receivable and 401 Interfund Loans Payable in the funds affected. When expenditures are made for replacement of damaged or stolen equipment, the expenditure should appear as 700 Property under the appropriate function.

3. 5300 Local Revenue Transfers to Another LEA—local revenue transfers to another LEA as required through the Minimum Foundation Program (MFP). Typically used to record a local revenue transfer to the Recovery School District or a Charter school from the district of prior jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A) (10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:474 (March 2000), amended LR 27:1684 (October 2001), LR 36:1522 (July 2010).

## **Chapter 11. Classification of Balance Sheet Accounts**

### **§1101. Assets and Other Debit Codes**

A. - B.11. ...

12. 122 Allowance for Uncollectable Taxes (Credit)—that portion of taxes receivable it is estimated will not be collected. The account is shown on the balance sheet as a deduction from the taxes receivable account in order to arrive at the net taxes receivable. Separate accounts may be maintained on the basis of tax roll year, delinquent taxes, or both.

13. - 16. ...

17. 152 Allowance for Uncollectible Loans (Credit)—the portion of loans receivable that it is estimated will not be collected. The account is shown on the balance sheet as a deduction from the other loans receivable account.

18. ...

19. 154 Allowance for Uncollectible Accounts Receivable (Credit)—a provision for that portion of accounts receivable that it is estimated will not be collected. The account is shown on the balance sheet as a deduction from the other accounts receivable account.

20. - 22. ...

23. 181 Prepaid Expenses—expenses paid for benefits not yet received. Prepaid expenses differ from deferred charges in that they are spread over a shorter period of time than deferred charges and are regularly recurring costs of operation. Examples of prepaid expenses are prepaid rent, prepaid interest, and unexpired insurance premiums.

24. ...

25. 192 Deferred Expenditures/Expenses—certain disbursements that are made in one period but are more accurately reflected as an expenditure/expense in the next fiscal period.

26. 194 Premium and Discount on Issuance of Bonds—represents amounts to be amortized as debt premium/discount in connection with the issuance of bonds.

27. 199 Other Current Assets—current assets not provided for elsewhere.

28. 211 Land and Land Improvements—a capital asset account that reflects the acquisition value of land owned by an LEA. If land is purchased, this account includes the purchase price and costs, such as legal fees, filling and excavation costs, and other associated improvement costs incurred to put the land in condition for its intended use. If land is acquired by gift, the account reflects its appraised value at the time of acquisition.

29. 221 Site Improvements—a capital asset account that reflects the acquisition value of permanent improvements, other than buildings, which add value to land. Examples of such improvements are fences, retaining walls, sidewalks, pavements, gutters, tunnels and bridges. If the improvements are purchased or constructed, this account contains the purchase or contract price. If improvements are obtained by gift, it reflects the appraised value at the time of acquisition.

a. Site improvements are improvements that have a limited useful life. Because these improvements decrease in their value/usefulness over time, it is appropriate to depreciate these assets. Therefore, all capitalized site improvements should be depreciated over their expected useful life.

30. 222 Accumulated Depreciation on Site Improvements—accumulated amounts for depreciation of land improvements.

31. 231 Building and Building Improvements—a capital asset account that reflects the acquisition value of permanent structures used to house persons and property owned by the LEA. If buildings are purchased or constructed, this account includes not only the purchase or contract price of all permanent buildings, but also the fixtures attached to and forming a permanent part of such buildings. This account includes all building improvements. If buildings are acquired by gift, the account reflects their appraised value at the time of acquisition.

32. 232 Accumulated Depreciation on Buildings and Building Improvements—accumulated amounts for depreciation of buildings and building improvements.

33. 241 Machinery and Equipment—tangible property of a more or less permanent nature, other than land, buildings, or improvements thereto, which is useful in carrying on operations. Examples are machinery, tools, trucks, cars, buses, furniture and furnishings. Definition—Supplies vs. Equipment provides criteria to distinguish whether a purchase is a supply or a piece of machinery or equipment.

34. 242 Accumulated Depreciation on Machinery and Equipment—accumulated amounts for depreciation of machinery and equipment.

35. 251 Works of Art and Historical Treasures—individual items or collections of items that are of artistic or cultural importance.

36. 252 Accumulated Depreciation on Works of Art and Historical Collections—accumulated amounts for the depreciation (as applicable) of works of art and historical treasures.

37. 261 Infrastructure—a capital asset, network, or subsystem that has a useful life that is significantly longer than those of other capital assets. These assets may include water/sewer systems, roads, bridges, tunnels, and other similar assets.

38. 262 Accumulated Depreciation on Infrastructure—accumulated amounts for the depreciation of infrastructure assets.

39. 271 Construction in Progress—the cost of construction work undertaken, but not yet completed.

40. 303 Amount Available in Debt Service Funds—an account in the general long-term debt account group. It designates the amount of fund balance available in the debt service fund for the retirement of long-term debt.

41. 304 Amount to be Provided for Retirement of General Long-Term Debt—an account in the general long-term debt account group. It designates the amount to be provided from taxes or other revenue to retire long-term debt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A) (10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:481 (March 2000), amended LR 36:1531 (July 2010).

### **§1103. Liabilities and Other Credit Codes**

A. - B.7. ...

8. 432 Construction Contracts Payable-Retainage—liabilities on account of construction contracts for that portion of the work that has been completed but on which part of the liability has not been paid, pending final inspection, or the lapse of a specified time period, or both. The unpaid amount is usually a stated percentage of the contract price.

9. - 10. ...

11. 442 Bonds Payable-Current—bonds that have not reached or passed their maturity date, but which are due within one year or less. This account is used only in proprietary or fiduciary funds, as well as in the government-wide financial statements.

12. 443 Unamortized Premiums on Issuance of Bonds—an account that represents that portion of the excess of bond proceeds over par value and that remains to be amortized over the remaining life of such bonds. This account is used only in proprietary or fiduciary funds, as well as in the government-wide financial statements.

13. 451 Loans Payable—short-term obligations representing amounts borrowed for short periods of time, usually evidenced by notes payable or warrants payable.

14. Lease Obligations-Current—capital lease obligations that are due within one year.

15. 455 Interest Payable—interest due within one year.

16. 461 Accrued Salaries and Benefits—salary and fringe benefit costs incurred during the current accounting period; these costs are not payable until a subsequent accounting period.

17. 471 Payroll Deductions and Withholdings—amounts deducted from employee salaries for withholding taxes and other purposes. District-paid benefit amounts payable also are included. A separate liability account may be used for each type of benefit.

18. 472 Compensated Absences-Currents—compensated absences that will be paid within one year.

19. 473 Accrued Annual Requirement Contribution Liability—a liability arising from payments not made to pension funds. This amount represents any difference between the actuarially determined annual required contribution and actual payments made to the pension fund.

20. 481 Deferred Revenues—a liability account that represents revenues collected before they become due.

21. 491 Deposits Payable—liability for deposits received as a prerequisite to providing or receiving services, goods, or both.

22. 492 Due to Fiscal Agent—amounts due to fiscal agents, such as commercial banks, for serving an LEA's matured indebtedness.

23. 499 Other Current Liabilities—other current liabilities not provided for elsewhere.

C. Long-Term Liabilities—debt with a maturity of more than one year. These accounts should be used only with proprietary and fiduciary funds, as well as at the entity-wide level of reporting.

1. 511 Bonds Payable—bonds (includes general obligation, asset-backed, or revenue backed) that have not reached or passed their maturity date and that are not due within one year.

2. 512 Accreted Interest—an account that represents interest that is accrued on deep discount bonds. This account should be used by school districts that issue capital appreciation bonds. Such bonds are usually issued at a deep discount from the face value, and no interest payment is made until maturity. Under full accrual accounting, the district is required to accrete the interest on the bonds over the life of the bonds. Accretion is the process of systematically increasing the carrying amount of the bond to its estimated value of the maturity date of the bond. To calculate accreted interest, the district should impute the effective interest rate, using the present value, the face value (or the future value), and the period of the bond, and multiply the effective interest rate by the book value of the debt at the end of the period. Accreted interest is usually recorded as an addition to the outstanding debt liability.

3. 513 Unamortized Gains/Losses on Debt Refundings—an account that represents the difference between the reacquisition price and the net carrying amount of old debt when a current or advance refunding of debt occurs. This account should be used only when defeasance of debt occurs for proprietary funds. The unamortized loss amount should be deferred and amortized as a component of interest expense in a systematic and rational manner over the remaining life of the old debt or the life of the new debt, whichever is shorter. On the balance sheet, this deferred amount should be reported as a deduction from or an addition to the new debt liability.

4. 521 Loans Payable—an unconditional written promise signed by the maker to pay a certain sum of money one year or more after the issuance date.

5. 531 Lease Obligations—amounts remaining to be paid on lease purchase agreements.

6. 541 Unfunded Pension Liabilities—the amount of the actuarial deficiency on a locally operated pension plan to be contributed by the LEA on behalf of present employees.

7. 551 Compensated Absences—amounts remaining beyond the period of one year to be paid on compensated absences balances.

8. 561 Arbitrage Rebate Liability—liabilities arising from arbitrage rebates to the Internal Revenue Service (IRS) from bond financing.

9. 590 Other Long-Term Liabilities—other long-term liabilities not provided for elsewhere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:482 (March 2000), amended LR 36:1532 (July 2010).

#### **§1105. Fund Balance Codes**

A. These accounts identify the excess of a fund over its liabilities. Portions of that balance may be reserved for future use. (Per GASB 54, fund balance codes 790 through 798 are required for financial statements for periods beginning after June 15, 2010; codes used prior to fiscal year 2010-11 will be maintained for historical purposes.)

1. 711 Investment in Capital Assets, Net of Related Debt—this account is used to record the net asset component invested in capital assets, net of related debt, which represents total capital less accumulated depreciation less directly related to capital assets. This account is to be used in proprietary funds only.

2. - 3. ...

4. 751 Reserve for Inventories—a reserve representing that portion of a fund balance segregated to indicate that assets equal to the amount of the reserve are tied up in inventories and are, therefore, not available for appropriation. The use of this account is optional unless the purchase method of accounting for inventory is used.

5. 752 Reserve for Prepaid Items—a reserve representing that portion of a fund balance segregated to indicate that assets equal to the amount of the reserve are tied up on prepaid expenses and are, therefore, not available for appropriation. The use of this account is optional.

6. 753 Reserve for Encumbrances—a reserve representing that portion of a fund balance segregated to provide for unliquidated encumbrances, including those automatically carried over from prior years by law. Separate accounts may be maintained for current and prior-year encumbrances.

7. 760 Reserved-Fund Balance—a reserve representing that portion of a fund balance segregated to indicate that assets equal to the amount of the reserve are obligated and are, therefore, not available for appropriation. This would include funds that have met the availability criteria, as well as any other provider provisions that may be required, but have not yet been expended. It is recommended that a separate reserve be established for each special purpose. One example of a special purpose would be restricted Federal programs.

8. 770 Unreserved - Undesignated Fund Balance—the excess of the assets of a fund over its liabilities and fund reserves.

9. 780 Unreserved - Designated Fund Balance—a designation that portion of the fund balance segregated to indicate that assets equal to the amount of the designation have been earmarked by the governing board or senior management for a bona fide purpose in the future, such as general contingencies or for equipment replacement.

10. 790 Nonspendable—amounts that are not in a spendable form (such as inventories and prepaid items) and other amounts that are legally or contractually required to be maintained intact (such as principal of a permanent fund).

11. 795 Spendable: Restricted—amounts constrained to specific purposes by their providers such as grantors, bondholders, and higher levels of government, through constitutional provisions, or by enabling legislation.

12. 796 Spendable: Committed—amounts constrained to specific purposes by a government itself, using its highest level of decision-making authority; to be reported as committed, amounts cannot be used for any other purpose unless the government takes the same highest-level actions to remove or change the constraint.

13. 797 Spendable: Assigned—amounts a government intends to use for a specific purpose; intent can be expressed by the governing body or by an official or body to which the governing body delegates the authority.

14. 798 Spendable: Unassigned—amounts that are available for any purpose; these amounts are reported only in the general fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:483 (March 2000), amended LR 27:1684 (October 2001), repromulgated LR 34:1388 (July 2008), amended LR 36:1533 (July 2010).

#### **§1107. Definition—Supplies vs. Equipment**

A. - A.2.c. ...

d. It is equal to or greater than \$5,000 per unit cost in value. (The increase of the property threshold amount to \$5,000 was advertised in the *Louisiana Register* and adopted as rule in the April 20, 2008 issue.)

NOTE: The unit cost of \$5,000 does not apply to any program funded with 8g monies.

3. Food is always considered a supply. Software costs that are below the district's capitalization threshold should be coded to supplies. Expenditures for software that exceed the district's capitalization threshold should be coded to equipment.

B. School districts maintain rigorous accountability for their property whether it is capitalized or not. For accountability and internal control purposes, many items of property that do not meet the districts' capitalization threshold must be inventoried. Thus, the Department of Education recommends maintaining inventory and tracking items that do not meet the equipment criteria if needed for insurance purposes and/or the item has "street value." For instance, districts might inventory DVD players and computers for internal control purposes but not capitalize them due to their low cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:610 (April 2008), repromulgated LR 34:1388 (July 2008), amended LR 36:1533 (July 2010).

### **Chapter 13. Personnel Requirements**

#### **§1301. Minimum Requirements for Lead School Business Administrator/Chief Financial Officer Business Manager (Local School Districts and Charter Schools)**

A. Repealed.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:434 (March 2007), amended LR 36:1533 (July 2010).

Jeanette Vosburg  
Executive Director

1007#044

## RULE

### Department of Environmental Quality Office of the Secretary Legal Affairs Division

#### Gasoline Handling (LAC 33:III.2131)(AQ309)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.2131 (Log #AQ309).

This Rule will clarify the applicability of Section 2131 of LAC 33:III. Section 2131 regulates control requirements for gasoline handling facilities. Parishes exempt from the gasoline handling requirements of this Section by Subsection A of the Section are nevertheless subject to 40 CFR Part 63, Subpart CCCCC. This will be a revision to the State Implementation Plan (SIP). This Rule will make the Louisiana Administrative Code at least as stringent in the gasoline handling area as the federal regulations. The basis and rationale for this Rule are to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### Title 33

## ENVIRONMENTAL QUALITY

### Part III. Air

#### Chapter 21. Control of Emission of Organic Compounds Subchapter F. Gasoline Handling

##### §2131. Filling of Gasoline Storage Vessels

A. Applicability. This regulation is applicable to each gasoline handling facility in the parishes of Bossier, Caddo, Beauregard, Calcasieu, Livingston, Pointe Coupee, East Baton Rouge, West Baton Rouge, Iberville, Lafayette, St. Mary, Ascension, St. James, St. John the Baptist, St. Charles, Lafourche, Jefferson, Orleans, St. Bernard, and Grant. Any parish to which this regulation does not apply remains subject to the requirements of 40 CFR 63, Subpart CCCCC.

B. Control Requirements. No person shall cause or allow the transfer of gasoline from any delivery vessel into any stationary storage container unless such container is equipped with a submerged fill pipe and unless the displaced vapor emissions from submerged filling of the container are processed by a vapor recovery system that reduces such emissions by at least 90 percent.

C. Approved Vapor Balance System. When a vapor balance system is used to comply with the above vapor

recovery system control requirement, the balance system will be assumed to meet the specified control requirement if the following conditions are met.

1. A vapor-tight return line having an internal cross-sectional area at least one-half that of the liquid line is connected before gasoline is transferred into the storage container. No gasoline leaks exist anywhere in the liquid transfer system. Inspection for visible liquid leaks, visible fumes, or odors resulting from gasoline dispensing operations shall be conducted by the owner or the operator of the gasoline outlet and the owner or the operator of the tank truck. Gasoline loading or unloading through the affected transfer lines shall be discontinued immediately when a leak is observed and shall not be resumed until the observed leak is repaired.

2. The only atmospheric emission during gasoline transfer into the storage container is through the storage container pressure-vacuum valve.

3. The delivery vessel is kept vapor-tight at all times with vapor recovery equipment. The delivery vessel must be in compliance with LAC 33:III.2137. The vapor-laden delivery vessel may only be refilled at bulk gasoline plants complying with LAC 33:III.2133 or bulk gasoline terminals complying with LAC 33:III.2135.

D. Alternate Vapor Balance Systems. Other vapor balance arrangements may be accepted if proof of the emission level required in Subsection B of this Section is provided to the administrative authority. Approval of any alternate vapor balance system shall not be valid unless it is received from the administrative authority in writing.

E. Exemptions. The following are exempt from the requirements of Subsection B of this Section:

1. transfers made to storage tanks with a capacity greater than 40,000 gallons (151,400 liters) and equipped with controls as required by LAC 33:III.2103 of these regulations;

2. any gasoline outlet in the parish of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee or West Baton Rouge whose throughput is less than 120,000 gallons (454,200 liters) per year, or any gasoline outlet in the parish of Beauregard, Bossier, Caddo, Grant, Jefferson, Lafayette, Lafourche, Orleans, St. Bernard, St. Charles, St. James, St. John the Baptist, or St. Mary whose throughput is less than 500,000 gallons (1,892,700 liters) per year. Once the rolling 30-day average throughput exceeds 10,000 gallons for a facility in the parish of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, or West Baton Rouge, or 42,000 gallons for a facility in the parish of Beauregard, Bossier, Caddo, Grant, Jefferson, Lafayette, Lafourche, Orleans, St. Bernard, St. Charles, St. James, St. John the Baptist, or St. Mary, that facility becomes an affected facility, and does not revert to an exempted facility when the throughput drops back below the throughput exemption level;

3. tanks with a capacity of 2,000 gallons or less installed before January 1, 1979, and new tanks with a capacity of 250 gallons or less installed after December 31, 1978; and

4. tanks having a capacity of less than 550 gallons used exclusively for the fueling of farm implements and having a submerged fill line.

**RULE**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

**HW Tanks—Secondary Containment Requirements  
and 90 Day Turnover of Hazardous Waste  
(LAC 33:V.109, 1109, 1901, 1907,  
1909, and 4437)(HW106)**

Editor's Note: This Rule is being repromulgated to correct typographical errors and a citation error. The original Rule may be viewed on pages 1234-1239 of the June 20, 2010 edition of the *Louisiana Register*.

F. Compliance. Compliance with this Section shall be determined by applying the following test methods, as appropriate:

- 1. test method 27 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determination of vapor tightness of gasoline delivery tanks using pressure-vacuum test;
- 2. guideline report EPA-450/2-78-051, Appendix B, Gasoline Vapor Leak Detection Procedure by Combustible Gas Detector;
- 3. test method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determination of volatile organic compound leaks.

G. Recordkeeping. The owner or operator of any operation that is involved with storing gasoline in any stationary container and required to comply with this Section shall maintain records to verify compliance with this Section. The records shall be maintained for at least two years and shall include, but not be limited to, the following:

- 1. the date of delivery of each shipment of gasoline, and the certificate number and date of certification of each delivery vehicle that delivers a shipment. Any owner or operator subject to this Section shall not accept delivery of gasoline from any gasoline tank truck that does not comply with LAC 33:III.2137.A.2;

NOTE: All gasoline tank trucks must have a sticker displayed on each tank indicating the identification number of the tank and the date each tank last passed the pressure and vacuum test described in LAC 33:III.2137.A.1. Each tank must be certified annually and the sticker must be displayed near the Department of Transportation certification plate. Any repairs necessary to pass the specified requirements must be made within 15 days of failure.

- 2. the date and a description of any malfunction, repair, replacement or modification of control systems or control equipment required to be used in the transfer of gasoline from the gasoline tank truck to a stationary storage tank. If the problem is with equipment on the tank truck, the name of the owner or operator of the tank truck, the truck identification number, the date the problem occurred, and the driver's name shall be recorded as part of the description; and

- 3. records of any testing requested by the administrative authority to prove compliance with this Section or any testing done by the owner or operator on a voluntary basis.

H. Implementation Schedule. Facilities must be in compliance with this Section within six months after becoming an affected facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:609 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1123 (October 1992), LR 19:1564 (December 1993), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:193 (February 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 36:1535 (July 2010).

Herman Robinson, CPM  
Executive Counsel

1007#059

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.109, 1109, 1901, 1907, 1909.D and E, and 4437.D (Log #HW106).

This Rule sets standards for the use of concrete as an external secondary containment system for hazardous waste tanks. It provides an approval process for using unlined/uncoated concrete as an external liner system under specific circumstances. The Rule also clarifies and adds an additional subsection to compliment the requirement of LAC 33:V.1909.D relating to the subject "accumulation time" exemption from hazardous waste permitting requirements by using a flow-through calculation in certain situations to provide clear standards in the regulation that will provide protection for the state's environment. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Waste and Hazardous Materials**

**Subpart 1. Department of Environmental Quality—  
Hazardous Waste**

**Chapter 1. General Provisions and Definitions**

**§109. Definitions**

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

\* \* \*

*Batch Tank*—a device meeting the definition of *tank* in this Section that receives a batch (or batches) of hazardous waste on a one-time or intermittent basis.

\* \* \*

*Continuous-Flow Tank*—a device meeting the definition of *tank* in this Section that receives hazardous waste on an ongoing, continuous basis.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987),

LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:1009 (June 2008), LR 34:1894 (September 2008), LR 34:2396 (November 2008), LR 36:1235 (June 2010), repromulgated LR 36:1535 (July 2010).

## **Chapter 11. Generators**

### **Subchapter A. General**

#### **§1109. Pre-Transport Requirements**

A. - D. ...

E. Accumulation Time

1. - 1.a.i. ...

ii. in tanks and the generator complies with the applicable requirements of LAC 33:V. 1901.E; and/or

E.1.a.iii. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:709, 716 (May 2001), LR 27:1014 (July 2001), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 31:1571 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:2102 (October 2007), LR 34:622 (April 2008), LR 36:1235 (June 2010), repromulgated LR 36:1536 (July 2010).

## **Chapter 19. Tanks**

### **§1901. Applicability**

A. The requirements of this Chapter apply to owners and operators of facilities that use tank systems for storing or treating hazardous waste except as otherwise provided in Subsections A and B of this Section or LAC 33:V.1501.

B. Tank systems that are used to store or treat hazardous waste that contains no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements of LAC 33:V.1907. To demonstrate the absence or presence of free liquids in the stored/treated waste, the following test method must be used: EPA Method 9095B (Paint Filter Liquids Test) as described in *Test*

*Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110.

C. Tank systems, including sumps, as defined in LAC 33:V.109, that serve as part of a secondary containment system to collect or contain releases of hazardous wastes are exempted from the requirements in LAC 33:V.1907.A.

D. Tanks, sumps, and other such collection devices or systems used in conjunction with drip pads, as defined in LAC 33:V.109 and regulated under LAC 33:V.Chapter 28, must meet the requirements of this Chapter.

E. Tanks meeting the requirements for the accumulation time exclusion of LAC 33:V.305.C and 1109.E.1 are subject to the requirements of LAC 33:V.1903.A, 1905.B-H, 1907.A, 1907.B-K, 1909, 1911, 1913, 1915.D, 1917, 1919, and 1921.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1013 (June 2008), LR 36:1235 (June 2010), repromulgated LR 36:1536 (July 2010).

### **§1907. Containment and Detection of Releases**

A. - D.4....

E. In addition to the requirements of Subsections B-D of this Section, secondary containment systems must satisfy the following requirements.

1. External liner systems must be:

a. - b. ...

c. free of cracks or gaps;

d. designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank(s);

e. impermeable to the extent that it will prevent lateral as well as vertical migration of waste into the environment (this is not intended to address releases to the air); and

f. if concrete is used as an external liner system:

i. the liner system must be:

(a). provided with a coating or lining that is compatible with the stored waste and meets the requirements of Subparagraph E.1.d and e of this Section except as specified in Clause E.1.f.ii and Subsection J of this Section;

(b). constructed with chemical-resistant water stops in place at all joints (if any), in liner systems installed after June 20, 2010 and in liner systems undergoing significant modification after June 20, 2010; and

(c). constructed with chemical-resistant joint sealants at all joints and cracks (if any);

ii. the owner or operator of a tank equipped with an uncoated/unlined concrete external liner system may demonstrate compliance with Subclause E.1.f.i.(a) of this Section by submitting the information described in Subsection J of this Section for review and obtaining written approval by the Office of Environmental Services.

2. Vault systems must be:

a. - c. ...

d. constructed with chemical-resistant joint sealants at all joints and cracks (if any), in vault systems installed after June 20, 2010 and in vault systems undergoing significant modification after June 20, 2010;

e. provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

f. provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

i. meets any of the definitions of ignitable waste under LAC 33:V.4903.B; or

ii. meets the definition of reactive waste under LAC 33:V.4903.D, and may form an ignitable or explosive vapor; and

g. provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

E.3. - I.5. ...

#### J. Unlined/Uncoated Concrete Liner Systems—Demonstration of Sufficiency Process

1. Submittals to the Office of Environmental Services intended to secure its approval of uncoated/unlined concrete liner systems, as provided for in Clause E.1.f.ii of this Section, must contain documentation regarding the information described below.

a. The owner or operator must provide detailed information on the uncoated/unlined external liner, including, but not limited to:

i. the design and installation specifications for any concrete joints, including water stops;

ii. the characteristics of any joint sealant used, including its compatibility with the waste stored in the tank system; and

iii. the characteristics of the concrete mix used, the design and construction specifications of the concrete liner and secondary containment system, and any American Concrete Institute or other applicable standards used.

b. The owner or operator must also provide the following information:

i. the physical and chemical characteristics of the waste in the tank system, including its potential for migration and its compatibility with the unlined/uncoated concrete external liner system;

ii. the persistence and permanence of the potential adverse effects from a release of the waste constituents to the environment;

iii. the risk to human health and the environment posed by a potential release of the waste constituents contained in the tank to the soil or groundwater;

iv. any factor that specifically influences the potential mobility of the waste contained in the tank and its potential to migrate through the unlined/uncoated concrete external liner system to the environment;

v. any additional protections afforded by the design and construction of the tank system, such as tank liners, lined piping, welded flanges, double bottoms, and/or elevation of the tank above the unlined/uncoated concrete external liner; and

vi. any other information requested by the administrative authority.

2. Submittals may also contain other documentation demonstrating that an unlined/uncoated concrete external liner system is appropriate, such as documentation regarding the following:

a. any natural or man-made hydrogeological characteristic of the facility and surrounding land that affords a barrier to the migration of waste into the environment;

b. any applicable regulation or permit requirement, or standard, such as, for example:

i. any schedule of more frequent than normal internal inspection of the tank pursuant to appropriate standards (e.g. American Petroleum Institute (API), American Society of Mechanical Engineers (ASME), etc.);

ii. any schedule of more frequent than normal external inspection of the tank pursuant to appropriate standards (e.g. API, ASME, etc.);

iii. any certification by a registered professional engineer regarding the permeability of the concrete that comprises the concrete liner system; and

c. the cost of installing and maintaining an impermeable coating or lining versus the potential benefits to be derived therefrom.

3. In deciding whether to approve the use of an unlined/uncoated concrete external liner system in lieu of the requirements of Subclause E.1.f.i.(a) of this Section:

a. the administrative authority shall consider each submittal on its own merits;

b. the stringency of the administrative authority's requirements may vary depending on the tank's contents (e.g., the concentration or type of material involved); and

c. the administrative authority shall approve the use of an unlined/uncoated concrete external liner system if it reasonably determines that the unlined/uncoated concrete external liner system:

i. will prevent lateral and vertical migration of waste into the environment; or

ii. is otherwise appropriate based on the potential risk to human health and the environment.

4. Within 30 days after receipt of an administratively complete submittal pursuant to this Subsection, the department shall provide written acknowledgment to the owner or operator that the submittal is under consideration. Subclause E.1.f.i.(a) of this Section shall not apply to the concrete external liner system while the administrative authority considers the owner's or operator's submittal. The administrative authority shall notify the owner or operator in writing of the administrative authority's approval or disapproval of the proposed use of an unlined/uncoated concrete external liner system. If the administrative authority does not approve the use of an unlined/uncoated concrete external liner system, it shall give the owner or operator a reasonable period of time to provide an appropriate coating or lining for the concrete external liner system, or another acceptable means of secondary containment.

5. If the use of an unlined/uncoated concrete external liner system is approved:

a. the owner or operator shall maintain on-site:

i. the written approval received from the administrative authority, or a legible copy thereof; and

ii. documentation sufficient to establish that any conditions upon which that approval was based are being fulfilled; and

b. the owner or operator shall provide written notification to the Office of Environmental Services of any change in the tank system, the service of the tank system, the concrete external liner system, the waste stored in the tank(s), or the information submitted by the owner or operator pursuant to Paragraph 1 or 2 of this Subsection that could result in a significant increase in the risk to human health or the environment posed by a potential release of waste constituents contained in the tank(s). Such notice shall be provided within 15 days of the owner's or operator's discovery of any such change. The department thereafter may require the submittal of additional information by the owner or operator, and/or revoke the approval for the owner's or operator's continued use of the unlined/uncoated concrete external liner system.

K. Effective Date/Due Date

1. Subparagraph E.1.f of this Section shall be effective:

a. one year from June 20, 2010, for tanks meeting the requirements for the accumulation time exclusion of LAC 33:V.305.C.2 and 1109.E.1; and

b. 180 days from June 20, 2010, for tanks subject to permitting.

2. Submittals under Subsection J of this Section shall be due:

a. within one year from June 20, 2010, for tanks existing prior to this date and that meet the requirements for the accumulation time exclusion of LAC 33:V.305.C.2 and 1109.E.1;

b. within 180 days from June 20, 2010, for tanks existing prior to this date and that are subject to permitting;

c. prior to tank installation, for tanks and/or tank systems installed after June 20, 2010 that meet the requirements for the accumulation time exclusion of LAC 33:V.305.C.2 and 1109.E.1;

d. contemporaneously with the submittal of the permit application, for new tanks and/or tank systems that are installed after June 20, 2010 and are subject to permitting; and

e. within such reasonable period of time as shall be established by the administrative authority upon request by the owner or operator, for any tank that is installed or undergoes a change in service within one year of June 20, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2107 (October 2007), LR 34:624 (April 2008), LR 34:995 (June 2008), LR 34:1896 (September 2008), LR 36:1235 (June 2010), repromulgated LR 36:1536 (July 2010).

**§1909. General Operating Requirements**

A. - C. ...

D. Owners or operators must provide documentation, maintained on-site, that batch tanks subject to the

accumulation time exclusion of LAC 33:V.1109.E have been emptied and cleaned of all residues and/or sludges at least once in each 90-day period.

1. A batch tank is deemed emptied and cleaned for the purposes of this Subsection if it has been emptied to the maximum extent practicable and:

a. - b. ...

2. Notwithstanding the provisions of Paragraph D.1 of this Section, except to the extent otherwise approved by the administrative authority, batch tanks subject to the exclusion of LAC 33:V.1109.E must be completely emptied and cleaned once per year to a level sufficient to allow visual inspection of all tank interior surfaces.

E. Owners or operators must provide documentation, maintained on-site, that continuous-flow tanks subject to the accumulation time exclusion of LAC 33:V.1109.E have been emptied at least once in each 90-day period.

1. A continuous-flow tank is deemed emptied if the owner or operator can demonstrate, via a mass balance approach and appropriate documentation or methodology, that hazardous waste has not been stored therein for more than 90 days. The key parameters in the mass balance approach are the volume of the tank (e.g., 6,000 gallons), the daily throughput of the hazardous waste (e.g., 300 gallons per day), and the time period the hazardous waste "resides" in the tank. In this example, the hazardous waste would have a residence time of 20 days ((6,000 gallons/300 gallons per day) = 20 days) and would meet the requirements of LAC 33:V.1109.E since the hazardous waste has been in the tank for less than 90 days.

2. The documentation or methodology that is used by the owner or operator to confirm a continuous-flow tank's compliance with Paragraph E.1 of this Section must be reasonable and easily discernible to the department.

3. A continuous-flow tank in which a significant amount of residue or sludge is accumulated may not qualify for the exclusion of LAC 33:V.1109.E. Therefore, the owner or operator of a continuous-flow tank for which that exclusion is claimed must ensure that significant accumulation of residue or sludge does not occur in the tank by satisfying the requirements either of Subsection D of this Section (in which case the words "continuous-flow tank" shall be substituted for the words "batch tank" in each instance where "batch tank" appears in that Subsection), or of Paragraph E.4 of this Section.

4. The owner or operator must provide documentation, maintained on-site, establishing that significant accumulations of residue or sludge do not occur within the tank; i.e., almost all residues or sludges in the tank at the beginning of the 90-day period have been removed (or displaced by incoming waste or newly-formed residues or sludges) by the end of the ninetieth day. The determination of what constitutes "significant accumulation of residue or sludge" shall be made on a case-by-case basis. However, no significant accumulation of residues or sludges shall be deemed to have occurred if the residues or sludges that accumulate in the tank constitute less than 5 percent by volume of the total tank capacity. To the extent that there is no significant accumulation of residue or sludge in the tank, the one-year storage prohibition under LAC 33:V.2205 shall not apply to any residue or sludge contained therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1804 (October 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 36:1237 (June 2010), repromulgated LR 36:1538 (July 2010).

## Chapter 43. Interim Status

### Subchapter I. Tanks

#### §4437. Containment and Detection of Releases

A. - D.4. ...

E. In addition to the requirements of Subsections B-D of this Section, secondary containment systems must satisfy the following requirements.

1. External liner systems must be:
  - a. - b. ...
  - c. free of cracks or gaps;
  - d. designed and installed to completely surround the tank and cover all surrounding earth likely to come into contact with the waste if released from the tank(s);
  - e. impermeable to the extent that it will prevent lateral as well as vertical migration of waste into the environment (this is not intended to address releases to the air); and
  - f. if concrete is used as an external liner system:
    - i. the liner system must be:
      - (a). provided with a coating or lining that is compatible with the stored waste and meets the requirements of Subparagraph E.1.d and e of this Section, except as specified in Clause E.1.f.ii and Subsection J of this Section;
      - (b). constructed with chemical-resistant water stops in place at all joints (if any), in liner systems installed after June 20, 2010 and in liner systems undergoing significant upgrade after June 20, 2010; and
      - (c). constructed with chemical-resistant joint sealants at all joints and cracks (if any);
    - ii. the owner or operator of a tank equipped with an uncoated/unlined concrete external liner system may demonstrate compliance with Subclause E.1.f.i.(a) of this Section by submitting the information described in Subsection J of this Section for review and obtaining written approval by the Office of Environmental Services.
2. Vault systems must be:
  - a. - c. ...
  - d. constructed with chemical-resistant joint sealants at all joints and cracks (if any), in vault systems installed after June 20, 2010 and in vault systems undergoing significant upgrade after June 20, 2010;
  - e. provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;
  - f. provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:
    - i. meets any of the definitions of ignitable waste under LAC 33:V.4903.B; or
    - ii. meets the definition of reactive waste under LAC 33:V.4903.D, and may form an ignitable or explosive vapor; and
  - g. provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of

moisture into the vault if the vault is subject to hydraulic pressure.

E.3. - I.4. ...

J. Unlined/Uncoated Concrete Liner Systems—Demonstration of Sufficiency Process

1. Submittals to the Office of Environmental Services intended to secure its approval of uncoated/ unlined concrete liner systems, as provided for in Clause E.1.f.ii of this Section, must contain documentation regarding the information described below.

a. The owner or operator must provide detailed information on the uncoated/unlined external liner, including, but not limited to:

- i. the design and installation specifications for any concrete joints, including water stops;
- ii. the characteristics of any joint sealant used, including its compatibility with the waste stored in the tank system; and
- iii. the characteristics of the concrete mix used, the design and construction specifications of the concrete liner and secondary containment system, and any American Concrete Institute or other applicable standards used.

b. The owner or operator must also provide the following information:

- i. the physical and chemical characteristics of the waste in the tank system, including its potential for migration and its compatibility with the unlined/uncoated concrete external liner system;
- ii. the persistence and permanence of the potential adverse effects from a release of the waste constituents to the environment;
- iii. the risk to human health and the environment posed by a potential release of the waste constituents contained in the tank to the soil or groundwater;
- iv. any factors that specifically influence the potential mobility of the waste contained in the tank and its potential to migrate through the unlined/uncoated concrete external liner system to the environment;
- v. any additional protections afforded by the design and construction of the tank system; such as tank liners, lined piping, welded flanges, double bottoms, and/or elevation of the tank above the unlined/uncoated concrete external liner; and
- vi. any other information requested by the administrative authority.

2. The submittal may also contain other documentation demonstrating that an unlined/uncoated concrete external liner system is appropriate, such as documentation regarding the following:

- a. any natural or man-made hydrogeological characteristic of the facility and surrounding land that affords a barrier to the migration of waste into the environment;
- b. any applicable regulation or permit requirement, or standard, such as, for example:
  - i. any schedule of more frequent than normal internal inspection of the tank pursuant to appropriate standards (e.g. American Petroleum Institute (API), American Society of Mechanical Engineers (ASME), etc.);
  - ii. any schedule of more frequent than normal external inspection of the tank pursuant to appropriate standards (e.g. API, ASME, etc.);

iii. any certification by a registered professional engineer regarding the permeability of the concrete that comprises the concrete liner system; and

c. the cost of installing and maintaining an impermeable coating or lining versus the potential benefits to be derived therefrom.

3. In deciding whether to approve the use of an unlined/uncoated concrete external liner system in lieu of the requirements of Subclause E.1.f.i.(a) of this Section:

a. the administrative authority shall consider each submittal on its own merits;

b. the stringency of the administrative authority's requirements may vary depending on the tank's contents (e.g., the concentration or type of material involved); and

c. the administrative authority shall approve the use of an unlined/uncoated concrete external liner system if it reasonably determines that the unlined/uncoated concrete external liner system:

i. will prevent lateral and vertical migration of waste into the environment; or

ii. is otherwise appropriate based on the potential risk to human health and the environment.

4. Within 30 days after receipt of an administratively complete submittal pursuant to this Subsection, the department shall provide written acknowledgment to the owner or operator that the submittal is under consideration. Subclause E.1.f.i.(a) of this Section shall not apply to the concrete external liner system while the administrative authority considers the owner's or operator's submittal. The administrative authority shall notify the owner or operator in writing of the administrative authority's approval or disapproval of the proposed use of an unlined/uncoated concrete external liner system. If the administrative authority does not approve the use of an unlined/uncoated concrete external liner system, it shall give the owner or operator a reasonable period of time to provide an appropriate coating or lining for the concrete external liner system, or another acceptable means of secondary containment.

5. If the use of an unlined/uncoated concrete external liner system is approved:

a. the owner or operator shall maintain on-site:

i. the written approval received from the administrative authority, or a legible copy thereof; and

ii. documentation sufficient to establish that any conditions upon which that approval was based are being fulfilled; and

b. the owner or operator shall provide written notification to the Office of Environmental Services of any change in the tank system, the service of the tank system, the concrete external liner system, the waste stored in the tank(s), or the information submitted by the owner or operator pursuant to Paragraph 1 or 2 of this Subsection that could result in a significant increase in the risk to human health or the environment posed by a potential release of the waste constituents contained in the tank(s). Such notice shall be provided within 15 days of the owner's or operator's discovery of any such change. The department thereafter may require the submittal of additional information by the owner or operator, and/or revoke the approval for the owner's or operator's continued use of the unlined/uncoated concrete external liner system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2507 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2482 (October 2005), LR 33:2134 (October 2007), LR 34:1004 (June 2008), LR 34:1899 (September 2008), LR 36:1238 (June 2010), repromulgated LR 36:1539 (July 2010).

Herman Robinson, CPM  
Executive Counsel

1007#060

## RULE

### Department of Environmental Quality Office of the Secretary Legal Affairs Division

#### Regulatory Permits for Cement and Concrete Facilities (LAC 33:III.317)(AQ299)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.317 (Log #AQ299).

The Regulatory Permit for Concrete Manufacturing Facilities provided for by this Rule affords a streamlined means of authorizing the construction and operation of facilities engaged in the manufacture of ready-mixed portland cement concrete, including central-mixed concrete, shrink-mixed concrete, and truck-mixed concrete. The authorization to emit air emissions pursuant to the provisions of this regulatory permit will become effective only upon notification by the department that the application required by this regulatory permit Rule has been determined complete. Senate Bill No. 209 of the 2006 Regular Legislative Session was signed by Governor Blanco on June 2, 2006, as Act 115. That Act, which became effective on August 15, 2006, allows LDEQ to develop "regulatory permits" for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). A "regulatory permit" is a permit in the form of standardized rule. The Rule, when promulgated, becomes part of the regulations, in this case Louisiana Administrative Code 33:III. A Rule is written for a type of facility, activity, or equipment for which the applicability and operational requirements are very similar in most instances. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to "submit a written notification...in lieu of submission of a permit application." The notification form will be specifically tailored to the activity addressed by the regulatory permit and will replace existing permit application forms. Any operations falling outside the parameters of the Rule will have to apply for and be issued a traditional permit. The basis and rationale for this Rule are to establish a regulatory permit to authorize air emission from minor source cement and concrete facilities. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding

environmental/health benefits and social/economic costs is required.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**

**Chapter 3. Regulatory Permits**

**§315. Regulatory Permit for Concrete Manufacturing Facilities**

**A. Applicability**

1. This regulatory permit authorizes the construction and operation of facilities engaged in the manufacture of ready-mixed portland cement concrete, including central-mixed concrete, shrink-mixed concrete, and truck-mixed concrete, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection E of this Section has been determined to be complete.

2. This regulatory permit may be used to authorize both stationary and portable concrete manufacturing facilities.

3. The monitoring and recordkeeping requirements herein do not apply during each day when the concrete manufacturing facility is not operational.

**B. Control of Fugitive Emissions**

1. Best housekeeping and maintenance practices shall be employed to minimize organic compound emissions. Good housekeeping shall include, but not be limited to, the practices described in LAC 33:III.2113.A.1-4.

2. Emissions which pass onto or across a public road and create a traffic hazard by impairment of visibility or intensify an existing traffic hazard condition are prohibited.

3. All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. These precautions shall include, but not be limited to, the following.

a. Open-bodied trucks transporting materials likely to give rise to airborne dust shall be covered at all times when in motion.

b. Earth or other material on paved areas within the facility due to transport by trucking or other means shall be promptly removed.

c. In-plant roads, vehicle work areas, material stockpiles, and other surfaces at the facility shall be watered, treated with dust-suppressant chemicals, oiled, or paved and cleaned as necessary to minimize dust emissions to the greatest extent practicable.

**C. Filter Vents (Baghouses)**

**1. Monitoring and Repair**

a. Filter vents shall be inspected for visible emissions on a daily basis.

b. Filter elements (bags) shall be inspected every six months or whenever visual checks indicate maintenance may be necessary.

c. Elements shall be changed in accordance with the manufacturer's recommendations or more frequently if maintenance inspections reveal damage or other impairments impacting the design efficiency of the unit.

2. Recordkeeping. The following records shall be kept on site and available for inspection by the Office of Environmental Compliance:

a. the results of the visual checks required by Subparagraph C.1.a of this Section;

b. the dates and results of the maintenance inspections required by Subparagraph C.1.b of this Section; and

c. the dates and a description of any maintenance or repair conducted in accordance with Subparagraph C.1.c of this Section.

**D. Internal Combustion Engines**

**1. Fuels and Fuel Sulfur Content**

a. Internal combustion engines (ICEs) shall not combust noncommercial fuels, including used crankcase oil or any other used oil, facility byproducts, or any other type of waste material. Only commercially available fuels such as diesel or gasoline shall be used.

b. The permittee shall not combust distillate oil that contains greater than 0.5 weight percent sulfur.

**2. Opacity**

**a. Limitations**

i. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

ii. Particulate Matter. The emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

iii. When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this Paragraph, this Paragraph will not apply.

**b. Monitoring and Recordkeeping**

i. The permittee shall inspect each ICE's stack for visible emissions once each month.

ii. If visible emissions are detected for more than one 6-minute period over a 60 consecutive minute test period, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, during the next monthly visible emissions check.

iii. If the shade or appearance of the emission is darker than 20 percent average opacity (per Method 9), the permittee shall take corrective action to return the ICE to its proper operating condition, and the 6-minute opacity reading in accordance with Method 9 shall be repeated. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity. This notification shall include the date the visual check was performed, results of the Method 9 testing, and a record of the corrective action employed.

iv. Records of visible emissions checks shall include the ICE's serial number, the date the visual check was performed, a record of emissions if visible emissions were detected for a period longer than 6 consecutive minutes, the results of any Method 9 testing conducted, and a record of any corrective action employed. These records

shall be kept on-site and available for inspection by the Office of Environmental Compliance.

3. Operating Time

a. Operating time of each ICE shall be monitored by any technically-sound means.

b. Operating time of each ICE shall be recorded each month, as well as its operating time for the last 12 months. These records shall be kept on-site for five years and available for inspection by the Office of Environmental Compliance.

4. New Source Performance Standards

a. Each stationary compression ignition (CI) ICE described in 40 CFR 60.4200(a) shall comply with the applicable provisions of 40 CFR 60, Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, unless the ICE is exempted as described in 40 CFR 60.4200(d).

b. Each stationary spark ignition (SI) ICE described in 40 CFR 60.4230(a) shall comply with the applicable provisions of 40 CFR 60, Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, unless the ICE is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f).

5. National Emissions Standards for Hazardous Air Pollutants. Each stationary reciprocating ICE described in 40 CFR 63.6590 shall comply with the applicable provisions of 40 CFR 63, Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

6. Gasoline storage tanks associated with an ICE and with a nominal capacity of more than 250 gallons shall be equipped with a submerged fill pipe.

E. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form (the form and guidance concerning it can be obtained from the Office of Environmental Services or through the department's website).

F. Relocation. The owner or operator shall notify the department prior to moving a portable concrete manufacturing facility to a new operating site. Approval must be obtained before operations at the new site can commence.

G. Standby Plan. The owner or operator shall develop and retain onsite a standby plan for the reduction or elimination of emissions during an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency. The plan shall be in accordance with the requirements of LAC 33:III.5611.

H. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is \$713 (fee number 1722). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be \$143.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:1541 (July 2010).

Herman Robinson, CPM  
Executive Counsel

1007#058

**RULE**

**Office of the Governor  
Division of Administration  
Office of Facility Planning and Control**

**Percent for Universal Design Program  
(LAC 34:III.Chapter 3)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and the provisions of R.S. 39:121, the Division of Administration, Facility Planning and Control hereby adopts a new Rule, LAC 34:III.Chapter 3, Louisiana Uniform Public Work Bid Form. This Rule is required by Act 368 of the 2009 Regular Legislative Session and provides for rules for their implementation as authorized by the Act.

**Title 34**

**GOVERNMENT CONTRACTS, PROCUREMENT  
AND PROPERTY CONTROL**

**Part III. Facility Planning and Control**

**Chapter 3. Louisiana Uniform Public Work Bid  
Form**

**Subchapter B. Universal Design**

**§321. Name**

A. The name of this document shall be the "Percent for Universal Design Program" also referred to hereinafter as "Universal Design."

AUTHORITY NOTE: Promulgated in accordance with Act 368 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 36:1542 (July 2010).

**§323. Purpose**

A. The purpose of this program is to provide for the implementation of the principles of universal design in or on state buildings and grounds to move beyond minimum accessibility requirements, maximize accessibility for all users regardless of their functional capabilities and bring to the attention of architects, builders, and the public at large the vast benefits that can be realized by implementing universal design principles in the construction and renovation of all buildings, including those privately owned and personal residences.

AUTHORITY NOTE: Promulgated in accordance with Act 368 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 36:1542 (July 2010).

### §325. Applicability

A. This Chapter shall apply to all state agencies and the construction or renovation of all state buildings for which the estimated construction cost exceeds two million dollars.

AUTHORITY NOTE: Promulgated in accordance with Act 368 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 36:1543 (July 2010).

### §327. Definitions

A. For the purposes of this Chapter, the following terms shall have the indicated meanings.

*Construction*—the process of adding structure to real property by acquiring and assembling the components of buildings or other physical improvements.

*Renovation*—construction to modify, alter or change an existing building for the purpose of adaptive reuse, reconstruction or restoration and may include modification of any or all building systems. It does not, however, include a project the principal purpose of which is the rehabilitation of plumbing, heating, ventilating, air conditioning, electrical or other systems whose purpose is strictly utilitarian.

*State Building*—any building, facility, structure, or park built or renovated using state funds that will be owned by a department or agency in the executive, judicial, or legislative branch of state government, including any state-owned lands or space surrounding or integral to the building. "State building" does not include vehicular bridges and tunnels, or other non integral structures whose purpose is strictly utilitarian.

*State Funds or State Money*—shall not include federal funds or insurance proceeds for the construction, replacement, renovation, or improvement of a state building damaged by a natural catastrophe when conditions governing the expenditure of such monies specifically preclude their use for the utilization and implementation of universal design features, nor shall it include state monies used as a match for such federal funds or insurance proceeds.

*Universal Design*—as more fully defined in the attached list of Principles of Universal Design, means certain design features that are not currently required by the Americans with Disabilities Act of 1990.

AUTHORITY NOTE: Promulgated in accordance with Act 368 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 36:1543 (July 2010).

### §329. Process

A. In order to allow for the highest level of flexibility, innovation and imagination to be applied to the implementation of the Principles of Universal Design, these rules establish the philosophical concepts that are to be utilized in the design, construction or renovation of state buildings.

1. The requirement to incorporate principles of universal design into the design will be made part of the architectural program for all applicable projects.

2. The universal design requirement will be stated in any advertisements or other solicitations for the procurement of design services for building construction or building renovation.

3. The architectural program, including the requirement to incorporate principles of universal design will be made part of the design contract for all applicable projects.

4. Features following the principles of universal design will be determined by the designer and confirmed by the owner.

a. During the development of the design of the project and no later than the beginning of the production of construction documents, the designer will review the principles of universal design, existing examples of universal design and other information and use this information to identify and develop features that utilize universal design principles as well as conforming to the mission of the project.

b. The designer will translate these principles into design features the cost of which will make up at least two percent of the estimated construction cost.

c. The designer will provide a report in a format defined by the owner including the following:

i. an itemized list of each feature that adheres to the principles of universal design;

ii. a dollar value for each feature;

iii. a description of each feature and an explanation of why each feature is above and beyond standard practice for the occupancy and quality level of the project.

d. The owner will review this report and verify that the features follow the principles of universal design and that the cost allocation is reasonable.

e. Approval of this report will authorize the designer to incorporate the features in the project design. Once approved this report will be final and will serve as the documentation of compliance with the provisions of R.S. 38:2318.2 unless the project scope is changed in such a way that the estimated construction cost is increased by more than two percent. If this situation obtains, the designer shall modify his/her report by including additional features or expanding existing ones to maintain the minimum two percent.

f. Questions about the validity of proposed universal design features between the designer and the owner that cannot be resolved may be referred to an advisory group established by AIA Louisiana (Louisiana Chapter of the American Institute of Architects) in accordance with RS 38:2318.2(F)(1). Features determined to be invalid will not be included in the approved list and the designer will modify his/her report to include additional features or expand existing ones to maintain the minimum two percent.

g. If the construction contract award amount varies from the estimated construction cost it will be assumed that all costs vary on a proportional basis and therefore the cost of the universal design features will continue to represent two percent of the total cost.

AUTHORITY NOTE: Promulgated in accordance with Act 368 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 36:1543 (July 2010).

### §321. Principles of Universal Design

A. Universal design is a principle of design guiding a wide range of design disciplines including environments, products, and communications including all of the following.

1. Principle 1: Equitable Use. The design is useful and marketable to people with diverse abilities.

a. Guidelines. Provides the same means of use for all users: identical whenever possible; equivalent when not. Avoids segregating or stigmatizing any users. Incorporates provisions for privacy, security, and safety that should be equally available to all users. Makes the design appealing to all users.

2. Principle 2: Flexibility in Use. The design accommodates a wide range of individual preferences and abilities.

a. Guidelines. Provides choice in methods of use. Accommodates right or left handed access and use. Provides adaptability to the user's pace.

3. Principle 3: Simple and Intuitive Use. Use of the design is easy to understand, regardless of the user's experience, knowledge, language skills, or current concentration level.

a. Guidelines. Eliminates unnecessary complexity. Consistent with user expectations and intuition. Accommodates a wide range of literacy and language skills. Arranges information consistent with its importance. Provides effective prompting and feedback during and after task completion.

4. Principle 4: Perceptible Information. The design communicates necessary information effectively to the user, regardless of ambient conditions or the user's sensory abilities.

a. Guidelines. Uses different modes (pictorial, verbal, tactile) for redundant presentation of essential information. Provides adequate contrast between essential information and its surroundings. Maximizes "legibility" of essential information. Differentiates elements in ways that can be described which includes making it easy to give instructions or directions. Provides compatibility with a variety of techniques or devices used by people with sensory limitations.

5. Principle 5: Tolerance for Error. The design minimizes hazards and the adverse consequences of accidental or unintended actions.

a. Guidelines. Arranges elements to minimize hazards and errors: most used elements, most accessible; hazardous elements eliminated, isolated, or shielded. Provides warnings of hazards and errors. Provides fail-safe features. Discourages unconscious action in tasks that require vigilance.

6. Principle 6: Low Physical Effort. The design can be used efficiently and comfortably and with a minimum of fatigue.

a. Guidelines. Allows user to maintain a neutral body position. Uses reasonable operating forces. Minimizes repetitive actions. Minimizes sustained physical effort.

7. Principle 7: Size and Space for Approach and Use. Appropriate size and space is provided for approach, reach, manipulation, and use regardless of user's body size, posture, or mobility.

a. Guidelines. Provides a clear line of sight to important elements for any seated or standing user. Makes

reach to all components comfortable for any seated or standing user. Accommodates variations in hand and grip size. Provides adequate space for the use of assistive devices or personal assistance.

AUTHORITY NOTE: Promulgated in accordance with Act 368 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 36:1544 (July 2010).

John L. Davis  
Director

1007#029

### RULE

#### Office of the Governor Division of Administration Office of Information Technology

Office of Electronic Services; Louisiana Data Base  
Commission (LAC 4:XI.101-111)

The Louisiana Office of Information Technology (OIT) has repealed the entire Chapter below which will result in abolishing the Office of Electronic Services. Act 409 of the 2009 Regular Legislative Session abolished the Office of Electronic Services, eliminated the obsolete duties that have been carried forward from the Louisiana Data Base Commission, and incorporated the staff, updated duties, and responsibilities into the Office of Information Technology.

It should be noted that when OES was created by Act 772, Subpart D of the 2001 Regular Legislative Session, it was placed under the direction of the Chief Information Officer. Act 409 of the 2009 Regular Legislative Session is not moving the staff and duties to the CIO's office; they are already there. It merely clarified the organizational structure of the Office of Information Technology.

### Title 4

#### ADMINISTRATION

#### Part XI. Office of Electronic Services

#### Chapter 1. Definition of the Louisiana Data Base

#### §101. Policy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292, 294, and 296.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2611 (November 2000), repealed by the Office of Information Technology, LR 36:1544 (July 2010).

#### §103. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000), repealed by the Office of Information Technology, LR 36:1544 (July 2010).

#### §105. Applicability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base

Commission, LR 26:2612 (November 2000), repealed by the Office of Information Technology, LR 36:1544 (July 2010).

#### **§107. Procedure**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292, 294, and 296 and R.S. 39:21.1, 21.2, 21.3, and 21.4.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000), repealed by the Office of Information Technology, LR 36:1545 (July 2010).

#### **§109. Definitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:294 and R.S. 39:2 (10), (31), (41), and (43).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000), repealed by the Office of Information Technology, LR 36:1545 (July 2010).

#### **§111. Responsibility**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:292, 294, and 296 and R.S. 39:21.1, 21.2, 21.3, and 21.4.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Data Base Commission, LR 26:2612 (November 2000), repealed by the Office of Information Technology, LR 36:1545 (July 2010).

Neal Underwood  
Director

1007#022

### **RULE**

#### **Office of the Governor Motor Vehicle Commission**

##### **General Provisions**

(LAC 46:V.Chapters 1, 3, 5, 7, 9, 11, 13, 15, 17, and 19)

In accordance with the provisions of the Administrative Procedures Act R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapter 6, the Office of the Governor, Louisiana Motor Vehicle Commission, notice is hereby given that the Louisiana Motor Vehicle Commission repeals provisions of its rules relating to hearings and replaces them with existing and new regulations and language to clarify the Rule as follows:

§101, "License Required" will become "Definitions" (previously §707);

§103, "Application for License" will become "Communication with Commission" (previously §107);

§105, "Violation of License Requirement" will become "Powers and Duties of Executive Director" (previously §109);

§301, "Hearings" will become "Investigation and Adjudication by the Commission";

§303, "Compulsory Attendance of Witnesses" will become "Adjudication Process and Procedures";

§305, "Notification and Hearing Decision" will become "Formal Hearing";

§307, "Appeal" will become "Declaration Orders and Rulings";

§505, "Licensee Employing Salesmen" will become "Pocket License Card";

Chapter 9, "Prohibitions" will become "Franchised Dealer Requirements" (previously Chapter 13); and

Chapter 11, "Amending Rules" will become "Vehicle Repairs and Services" (previously Chapter 15).

Rules will be adopted to implement the provisions of R.S. 32:1268.2 with regard to the disposal of inventory and R.S. 32:1256 with regard to new motor vehicle auto shows. Certain Sections will be amended with language to clarify the rules and put into the rule customary procedures of the commission which will assist licensees in dealing with the regulatory scheme assigned the commission.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part V. Automotive Industry**

#### **Subpart 1. Motor Vehicle Commission**

#### **Chapter 1. General Requirements**

#### **§101. Definitions**

[Previously §707]

##### **A. Definitions**

*Abbreviations*—using shortened terms for words or initials for groups of words. Commonly understood abbreviations, such as "2 DR", "AM/FM", "APR", "WAC", "DEMO", "EXEC", "DOC FEE", may be used. Trade industry abbreviations which are not commonly understood, such as "FTB", "A/R", "TOP", "POF", "DOC", may not be used. This rule does not contain a list of all the abbreviations one may not use.

*Advertisement*—an oral, written, telecommunicated, graphic, or pictorial statement made in the course of soliciting business, including, without limitation, a statement or representation made in a newspaper, magazine, or other publication, or contained in a notice, sign, poster, display, circular, pamphlet, letter, flyer, price tag, window sticker, banners, billboards, handbills, or on radio, the Internet, or via on-line computer service, or on television or on-hold messaging, any medium.

*Bait Advertisement*—an alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain leads to persons interested in buying or leasing merchandise of the type advertised and to switch consumers from buying or leasing the advertised product in order to sell some other product at a higher price or on a basis more advantageous to the advertiser.

*Balloon Payment*—any scheduled payment required by a consumer credit sale or consumer loan that is more than twice as large as the average of all prior scheduled payments except the down payment.

*Commission*—the Louisiana Motor Vehicle Commission.

*Dealership Addendum*—a form which is to be displayed on a window of a motor vehicle when the dealership installs special features, equipment, parts or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a vehicle for delivery to a buyer.

##### **a. The addendum is to disclose:**

i. that it is supplemental;

ii. any added feature, service, equipment, part, or accessory charged and added by the dealership and the retail price therefore;

iii. any additional charge to the selling price manufacturer's suggested retail price (MSRP) such as additional dealership markup; and

iv. the total dealer retail price.

b. The dealership addendum form shall not be deceptively similar in appearance to the manufacturer's label, which is required to be affixed by every manufacturer to the windshield or side window of each new motor vehicle under the Automobile Information Disclosure Act.

*Demonstrator*—a new motor vehicle that is currently in the inventory of the automobile dealership and used or has been used primarily for test drives by customers and other dealership purposes and so designated by the dealership. Demonstrators may be advertised for sale as such only by an authorized dealer in the same make of motor vehicle.

*Disclaimer*—those words or phrases used to provide a clear understanding of any advertised statement, but not used to contradict or change the meaning of the statement.

*Disclosure*—a clear and conspicuous statement made in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable and understandable. The disclosure may not contradict or be inconsistent with any other information with which it is presented. If the disclosure modifies, explains, or clarifies other information with which it is presented, or states "see dealership for details," then it must be presented in proximity to the information it modifies, in a manner readily noticeable, readable, and understandable, and it must not be obscured in any manner.

a. An audio disclosure must be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it.

b. A visual disclosure for television must appear on the screen for a duration sufficient for a consumer to read and comprehend it.

c. In a print or internet advertisement or promotional material, including without limitation point of sale display or brochure materials directed to consumers, a disclosure must be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, in a print that contrasts with the background against which it appears.

d. For purposes of these rules, qualifying terms and phrases will be considered to be clearly, conspicuously and accurately set forth if they are:

i. in bold print and type of such size that is capable of being read without unreasonable extra effort;

ii. expressed in terms that are understandable to the buying public; and

iii. in close proximity to the qualified representation and not separated or buried by asterisk in some other part of the advertisement.

*Factory Executive/Official Vehicle*—a new motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor or their subsidiaries.

*Internet*—a system that connects computers or computer network.

*Licensee*—any person required to obtain a license from the commission.

*Manufacturer's Label*—the label required by the Automobile Information Disclosure Act, 15 U.S.C. 1231-1233, to be affixed by the manufacturer to the windshield or side window of each new automobile delivered to the dealer.

*Program Vehicle*—a used vehicle that is purchased at a manufacturer's closed auction or sold by or directly from the manufacturer or distributor which is current or previous year model, that has been previously tagged and/or titled, and returned to the manufacturer for disposal.

*Rebate or Cash Back*—a sum of money refunded to a purchaser for their benefit by the manufacturer or distributor after full payment has been rendered. The purchaser may choose to reduce the amount of the purchase price by the sum of money or the purchaser may opt for the money to be returned to himself or for his benefit subsequent to payment in full.

*Vehicle*—any motor vehicle or recreational product subject to regulation by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:75 (January 2008), amended LR 36:1545 (July 2010).

### **§103. Communication with Commission**

#### **[Previously §107]**

A. All communications with the commission should be addressed to its office, 3519 Twelfth Street, Metairie, LA 70002. All necessary forms may be obtained at such office.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1546 (July 2010).

### **§105. Powers and Duties of Executive Director**

#### **[Previously §109]**

A. The executive director of the commission shall have charge of the office of the commission, the clerical help therein, the books and records of the commission, and the financial accounts of the commission, subject to the orders and instructions of the commission. He shall attend to such routine correspondence and other activities as may not require official action by the commission itself, and shall perform such other tasks as the commission may delegate to him. The executive director has the authority to issue all licenses upon receipt of applications that comply with the statutes and rules of the commission. He shall endeavor to obtain all necessary information and so handle and process the preliminary aspects of matters which are to come before the commission for official action that when placed before the commission the matter will be in shape for proper official action.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1546 (July 2010).

**§107. Manufacturer Termination of Franchise:  
Liquidation of New Vehicle Inventory:  
Exception**

A. If the termination, cancellation, or nonrenewal of a licensee's franchise by the manufacturer, distributor, or factory branch is the result of the termination, elimination, or cessation of a motor vehicle or recreational product line (a "vehicle"), whether by bankruptcy, closure of its business or otherwise (the "termination"), the license issued by the commission many remain in effect or be renewed at the discretion of the commission under the following circumstances.

1. The vehicle(s) was acquired in the ordinary course of business as a new vehicle by a person licensed to sell that vehicle.

2. The termination is not a result of the revocation by the commission of the licensee's license or the licensee's conviction of a crime.

3. The vehicle is held in the inventory of the licensee on the date of the termination.

4. The vehicle is sold by the licensee within six months of the date the termination unless this period is extended upon application by the licensee in the commission's discretion.

5. The commission's discretion to allow the licensee to continue in effect does not entitle a licensee whose franchise agreement has been terminated, canceled, or rejected to continue to perform warranty service repairs or continue to be eligible to offer or receive consumer or dealer incentives offered by the manufacturer, distributor, or factory branch.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1547 (July 2010).

**§109. Records Management; General**

A. Any public record maintained by the commission may be kept in any written, photographic, microfilm, or other similar form or method, or may be kept by any magnetic, electronic, optical, or similar form of data compilation that has reasonable safeguards against erasure or alteration, including the use of programs, methods, procedures and/or services that provide secured, portable document formats and digital signatures, and for which the commission has obtained the necessary licenses and/or authorities to insure reasonable safeguards against erasure or alteration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1547 (July 2010).

**§113. Hearings on Area of Responsibility Disputes**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1223 (July 2006), amended LR 33:1638 (August 2007), repromulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 35:1525 (August 2009), repealed LR 36:1547 (July 2010).

**§115. Hearings on a Repurchase Demands**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1223 (July 2006), amended LR 33:1638 (August 2007), repromulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 35:1525 (August 2009), repealed LR 36:1547 (July 2010).

**Chapter 3. Hearing Procedures**

**§301. Investigation and Adjudication by the Commission**

A. The commission has the responsibility to consider and determine the action necessary upon all charges of conduct which fail to conform to R.S. 32:1251 et seq., as re-enacted and amended, or to the rules and regulations promulgated to carry out the provisions of this Chapter or for the violation of any other law or rule or regulation relating to the sale, lease or rental, distribution or financing of products, and any activities regulated by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1547 (July 2010).

**§303. Adjudication Process and Procedures**

A. The provisions of the Administrative Procedure Act shall govern proceedings on questions of violation of R.S. 32:1251 et seq., as re-enacted and amended. An adjudication proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

B. The commission is empowered to conduct investigations to determine compliance with the laws and rules and regulations it administers. The executive director or its designee may issue a subpoena prior to the filing of charges if, in the opinion of the executive director, such a subpoena is necessary to investigate any potential violation or lack of compliance with R.S. 32:1251 et seq., or the rules, regulations, or orders of the commission. The subpoena may be to compel the attendance of any person to appear for the purposes of giving sworn testimony or to compel the production of books, records, papers, or other objects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1547 (July 2010).

**§305. Formal Hearing**

A. The commission has the authority to bring administrative proceedings with regard to any licensee, applicant for a license, or any person engaged in activities regulated by the commission, as well as to conduct administrative hearings with regard to disputes between its licensees regarding the provisions of R.S. 32:1251 et seq., and other laws and rules and regulations administered by the commission. A person(s), who is a party to the hearing, has the right to appear and be heard, either in person or by counsel; the right of notice, a statement of what accusations

have been made; the right to present evidence and to cross-examine; and the right to have witnesses subpoenaed.

**B. Notice and Service**

1. The executive director fixes a time and place for a hearing.

2. Within 10 days from the time of receipt of the notice of hearing, the noticed party shall file with the executive secretary of the commission an answer admitting or denying separately and in good faith each statement of fact made in the notice. If the noticed party has no knowledge of the truth of any particular fact, he shall so state and it shall be taken as denied. Any fact not expressly denied, or knowledge thereof disclaimed, shall be considered admitted. This rule is for the purpose of preventing the loss of time and expense frequently occasioned in proving and recording facts about which there is not real controversy.

3. If the licensee, or person subject to the hearing, does not appear, in person or through counsel, after proper notice has been given, the person may be deemed to have waived his right to appear and the commission may proceed with the hearing without the presence of the person.

4. Informal disposition of any case of adjudication may be made by stipulation, agreed settlement, consent order or default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 36:1547 (July 2010).

**§307. Declaratory Orders and Rulings**

A. The commission may issue a declaratory order and ruling pursuant to the Administrative Procedure Act which has the same status as a commission decision or order in an adjudicated case.

B. A request for a declaratory order and ruling shall be made in the form of a petition to the commission. The petition shall include, but shall not be limited, to the following:

1. the name and address of petitioner;
2. specific reference to the statutes or rules and regulations to which it relates;
3. a statement of the manner in which the petitioner is aggrieved by the statute or rule or by its potential application to it, or in which it is uncertain of its effects;
4. a statement of whether an oral hearing is desired;
5. other information appropriate for the commission's deliberation on the request.

C. The petition will be considered by the commission at its next regularly scheduled meeting provided that the petition has been filed at least 30 days prior to that meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1548 (July 2010).

**Chapter 5. Motor Vehicle Salesmen; Dealers; Distributors**

**§501. Licenses for Motor Vehicle Salesmen**

A. The requirement of licenses for motor vehicle salesmen, as set forth in R.S. 32:1251 et seq., includes any person whose duties include, in whole or in part, the selling, financing, insuring, or participating in the selling of motor vehicles or recreational products.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1548 (July 2010).

**§503. Unlicensed Motor Vehicle Salesmen**

A. It is illegal for licensees to employ unlicensed motor vehicle salesmen. A motor vehicle salesman must possess a separate license for every licensee and location for which he engages in any selling activity.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1548 (July 2010).

**§505. Pocket License Card**

**[Previously §507]**

A. Every motor vehicle salesman, factory representative, and distributor representative, when licensed, will be licensed to represent his employer and must keep his pocket license card on his person, and his employer must retain possession of the license certificate until termination of such employment. Said motor vehicle salesman, factory representative, or distributor representative may not represent another employer without first being issued a license to represent the said particular employer.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1256.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1548 (July 2010).

**§507. Termination of Motor Vehicle Salesman; Return of Pocket Card and License**

**[Previously §509]**

A. All licenses having motor vehicle salesmen in their employ must, upon termination of such employment, report same to the commission and see to it that said motor vehicle salesman's pocket card and license certificate are immediately returned to the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1548 (July 2010).

**§509. Unlicensed Motor Vehicle Salesmen; Prohibition against Use of**

**[Previously §511]**

A. Licensees shall not employ or compensate unlicensed motor vehicle salesmen to sell vehicles, and shall not employ or utilize the services of used motor vehicle lots or dealers or other unlicensed "bird dogs" in connection with the sale of vehicles.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1548 (July 2010).

**§511. Display of License**  
**[Previously §513]**

A. Every licensee must post his license certificate as such in a prominent place in his place of business, stated in such license certificate, and licensees having more than one place of business in Louisiana must obtain a separate license for each place of business and post in each place of business in a prominent place the license for such place of business.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1549 (July 2010).

**§513. License Prior to Shipment**  
**[Previously §515]**

A. A manufacturer, distributor, converter, factory representative, or distributor representative shall not ship or sell motor vehicles, recreational products, or specialty vehicles to a licensee until the licensee shall have been licensed by the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1549 (July 2010).

**Chapter 7. Advertising**

**§703. General Prohibition**

A. A person advertising vehicles shall not use false, deceptive, unfair, or misleading advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:75 (January 2008), amended LR 36:1549 (July 2010).

**§705. Specific Rules**

A. The violation of an advertising rule shall be considered by the commission as a prima facie violation of R.S. 32:1251 et seq. In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the commission to be false, deceptive, or misleading shall be deemed a violation of R.S. 32:1251 et seq., and shall also be considered a violation of the general prohibition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:75 (January 2008), amended LR 36:1549 (July 2010).

**§709. Availability of Vehicles**

A. - A.2. ...

B. Licensees may advertise a specific used vehicle or vehicles for sale if:

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:76 (January 2008), amended LR 36:1549 (July 2010).

**§713. Untrue Claims**

A.1. - 5. ...

6. specific claims or discount offers shall not be used in connection with any vehicle other than new or a demonstrator and then only to show the difference between the dealer's own current selling price and the bona fide manufacturer's suggested list price, if an automobile, or manufacturer's suggested retail price, if a truck or recreational product. Full explanation must be given, as for example, "Save or discount \$ from manufacturer's list/retail price." Such statements as "Up To," "As Much As," "From"- "To," etc., shall not be used in connection with savings claims.

7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:76 (January 2008), amended LR 36:1549 (July 2010).

**§717. Manufacturer's Suggested Retail Price**

A. The suggested retail price of a new motor vehicle when advertised by a manufacturer or distributor shall include all costs and charges for the vehicle advertised, except that destination and dealer preparation charges, state and local taxes, title, and license fees may be excluded from such price, provided that the advertisement clearly and conspicuously states that such costs and charges are excluded. With respect to advertisements placed with local media in Louisiana by a manufacturer or distributor which includes the names of the local dealers of the vehicles advertised, if the price of a vehicle is stated in the advertisement, such price must include all costs and charges for the vehicle advertised, including destination and dealer preparation charges and may exclude only state and local taxes, license, and title fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:77 (January 2008), amended LR 36:1549 (July 2010).

**§719. Dealer Price Advertising**

A. The featured price of a new or used vehicle, when advertised, must be the full cash price for which the vehicle will be sold to any and all members of the buying public. The only charges that may be excluded from the advertised price are:

A.1. - B. ...

C. If a price advertisement of a new vehicle discloses a rebate, cash back, discount savings claim, or other incentive, the full cash price of the vehicle must be disclosed as well as

the price of the vehicle after deducting the incentive. The following is an acceptable format for advertising a price with rebates and other deductions.

Mfg. Sugg. Retail Price	\$9,995
less rebate	\$500
less dealer discount	\$500
Sale Price	8,995

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:77 (January 2008), amended LR 36:1549 (July 2010).

#### **§721. Identification**

A. - B. ...

C. An illustration of a vehicle used in an advertisement must be substantially the same as that of the vehicle advertised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:77 (January 2008), amended LR 36:1550 (July 2010).

#### **§729. Demonstrators, Factory Executive/Official Vehicles**

A. If a demonstrator or factory executive/official vehicle is advertised, the advertisement must clearly and conspicuously identify the vehicle as a demonstrator or factory executive/official vehicle. A demonstrator or factory executive/official vehicle may be sold only by a dealer franchised and licensed to sell that line-make of vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:78 (January 2008), amended LR 36:1550 (July 2010).

#### **§747. Savings Claims; Discounts**

A. ...

B. The featured savings claim or discount offer for a vehicle, when advertised, must be the savings claim or discount which is available to any and all members of the buying public.

C. If a dealer has added an option obtained from the manufacturer or distributor of the vehicle on which it is installed and disclosed the option and factory suggested retail price of the option on a dealership addendum sticker prior to offering the vehicle for sale at retail, the dealer may advertise a savings claim on that vehicle as long as the difference is shown between the dealer's selling price and the total selling price as disclosed on the dealership addendum sticker and discloses the factory-available options added in the advertisement. If an option that is added by a dealer is not a factory-available option, a savings claim may not be advertised on that vehicle.

D. ...

E. No person may advertise a savings claim or discount offer on used vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:78 (January 2008), amended LR 36:1550 (July 2010).

## **Chapter 9. Franchised Dealer Requirements**

### **§901. Display Showroom Requirement**

**[Previously §1301]**

A. Franchised new motor vehicle dealers must have an enclosed new motor vehicle display showroom of not less than 400 square feet in area, and must maintain an adequate stock of replacement parts, an adequate shop area and adequate mechanical facilities for the proper servicing of the motor vehicles which he sells.

B. Provided that low speed vehicles as defined from time to time by the Office of Motor Vehicles and exclusive heavy duty truck dealers are not required to maintain a display showroom as required by this Section.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:543 (August 1983), amended LR 36:1550 (July 2010).

## **Chapter 11. Vehicle Repairs and Services**

### **§1101. Definitions**

**[Previously §1501]**

A. For the purpose of Chapter 11 only, the following definitions shall apply.

*Anticipated Repairs, Services, Labor, and Parts*—those repairs, services, labor, and parts, which based on the judgement, training, and experience of the supplier will be foreseeably required in order to achieve the results desired by the consumer who requests repairs and services.

*Necessary Repairs, Services, Parts and Labor*—those repairs, services, parts and labor which, in the judgement of the supplier, are required to fully remedy or prevent a defect or malfunction.

*Original Estimate*—an approximation of the cost of anticipated repairs and services to be performed by a supplier which does not exceed the subsequent actual cost of such anticipated repairs and services by more than 25 percent.

*Supplier*—any new or unused vehicle dealer who furnishes or supplies vehicle repairs and services, either directly or through the employment of other mechanics or repairmen; provided, however, that vehicle repairs and services performed on vehicles over 20,000 pounds, GVWR are excluded for the purposes of Chapter 11.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1550 (July 2010).

### **§1103. Unfair Acts and Practices**

**[Previously §1503]**

A. It shall be an unfair act or practice, in connection with a transaction involving motor vehicle repairs and services for a supplier of such repairs and services to do any of the following:

1. if specifically requested by consumer, when the anticipated repairs exceed \$125, then to fail to provide in

advance, to a consumer seeking repairs and services, a written original estimate of the cost to the consumer of all anticipated repairs and service, including any charge for disassembly or reassembly of any parts disassembled for inspection and any service charge of any type to be imposed:

a. such written estimate shall include, in separate columns an itemized list of each anticipated repair to be performed, the anticipated labor charge involved for each repair, and the cost to the consumer of anticipated parts to be replaced;

b. the requirement of §1103 shall be satisfied by the statement of a flat rate price if such repairs and services are customarily done and billed on a flat rate basis;

c. notwithstanding anything herein to the contrary, if disassembly for inspection is necessary to determine the extent of anticipated repairs before an original estimate can be given, then any charge for such disassembly and/or reassembly shall be disclosed in advance: provided further that the amount of the charge referred to herein shall not be conditioned upon the consumer consenting to performance of the inspection by the supplier who performs said inspection;

d. a fair charge may be made by the supplier for the service of preparing this written estimate; said charge not to exceed \$5 for an estimate up to \$200 and not to exceed \$10 for estimate in excess of \$200 if same is made on the premises of the supplier, and notice of this charge must be posted as designated in §1103.A.3;

2. if an original written estimate is requested by a consumer, then, to fail to obtain oral or written authorization from the consumer for subsequently arising unanticipated, but necessary, repairs, services, parts and labor, when those repairs, services, parts and labor will exceed the cost estimated in the original estimate, or itemized part thereof, by more than 25 percent excluding tax:

a. when unanticipated, but necessary, repairs, services, parts and labor are needed and authorization to perform same is obtained from the consumer, the cost of these additional repairs, services, parts and labor shall be separately estimated in writing and a copy of this separate estimate made available to the consumer;

3. to fail to post in a conspicuous place in the service reception area a sign with a white background and having black letters at least 1 inch in weight which reads as follows:

a. Notice to our customers:

i. "You may request a written estimate, in advance, before authorizing us to repair your vehicle if it is anticipated that such repairs might exceed \$125. Our charge for such estimate is \$\_\_\_ for any job up to \$200 and \$\_\_\_ for jobs in excess of \$200";

b. provided that the supplier makes no charge for a written estimate then he may delete the last sentence of the above notice and insert in its place a statement that no charge is made for the estimate;

c. provided further that the supplier may at his option, change the \$125 requirement to a lesser amount;

4. to fail to reassemble any parts disassembled for inspection unless the consumer is so advised prior to acceptance for inspection by the supplier;

5. to willfully represent that repairs are necessary when such is not the fact;

6. to willfully represent that repairs have been made when such is not the fact;

7. to willfully represent that the parts being inspected or diagnosed are in a dangerous condition or that the consumer's continued use of them may be harmful to him when such is not the fact;

8. to willfully understate or misstate the estimated cost of repairs, services, parts and labor in excess of 25 percent for the purpose of inducing a consumer to enter into a transaction for repairs and services;

9. to fail to disclose the intended use of used parts in conjunction with repairs and services, or to install used parts without the knowledge and consent of the consumer;

10.a. to fail to provide the consumer with an itemized bill indicating repairs and services actually performed, parts actually replaced, or materials actually used, the total labor charge, and the name of the mechanic, repairman, or supplier who performed the work;

b. the requirements of §1103.A.10.a shall be satisfied by a bill reflecting a flat rate price if such repairs and services are customarily done and billed on a flat rate basis.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1550 (July 2010).

### **§1105. Replaced Parts**

#### **[Previously §1505]**

A. Upon request of the consumer at the time the repair order is written, the supplier shall then tender to such consumer any replaced parts at the time the job is delivered, unless the parts are to be rebuilt or sold by the supplier, or if the part is a warranty part that must be returned to the manufacturer, and such intended reuse or return is made known to the consumer at the time of the request.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1551 (July 2010).

### **Chapter 13. New Motor Vehicle Auto Shows**

#### **§1301. Authorization for Auto Show**

A. The commission may authorize or prohibit motor vehicle sales and shows at offsite locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1551 (July 2010).

#### **§1303. Application for Show Permit**

A. The organizer or promoter of a new motor vehicle auto show shall be required to obtain a license from the

commission and its request for a license shall consist of the following:

1. the application shall be on a form prescribed by the commission and shall require such information as the commission deems necessary to enable it to determine the qualifications and eligibility of the applicant;

2. a license fee of \$500;

3. the license shall be for the new motor vehicle auto show subject of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1551 (July 2010).

### **§1305. Show Requirements**

A. The application must be submitted to the commission no less than 60 days prior to the opening date of the event and must include a list of all licensed motor vehicle dealers within the geographical area.

B. Only licensed motor vehicle dealers may conduct sales of motor vehicles at such sales and shows.

C. The show must be for a particular geographical area, not less than a parish. The geographical area cannot include a part of a parish.

D. All licensed motor vehicle dealers within the show's geographical area must be offered the opportunity to participate in the show.

E. A majority of the licensed motor vehicle dealers within the show's geographical area must participate in the event.

F. Each respective manufacturer shall grant authority to the respective dealers participating to conduct the sale or show of motor vehicles at the proposed offsite location.

G. A licensed motor vehicle dealer may participate in only two shows in a calendar year.

H. Not less than 30 days prior to the opening day of the show the commission must receive a list of all participating licensed motor vehicle dealers together with the consent of each respective manufacturer.

I. Participation by a licensed motor vehicle dealer shall include display of vehicles and presence of dealer personnel

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1552 (July 2010).

## **Chapter 17. Motor Vehicle Lessor**

### **§1701. Qualifications and Eligibility**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1254 and R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Motor Vehicle Commission, LR 11:518 (May 1985), repealed 36:1552 (July 2010).

### **§1703. Definitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1254 and R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Motor Vehicle Commission, LR 11:518 (May 1985), repealed LR 36:1552 (July 2010).

## **Chapter 19. Marine Products Area of Responsibility**

### **§1901. Uniform Procedures to Designate the Territory Assigned to a Marine Dealer**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:781 and 817.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2482 (November 2004), amended LR 33:1638 (August 2007), repromulgated by the Office of the Governor, Motor Vehicle Commission, LR 35:1528 (August 2009), repealed LR 36:1552 (July 2010).

### **§1903. Procedure for Appointing Independent Marine Surveyor**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:771.

HISTORICAL NOTE: Promulgated by Office of the Governor, Recreational and Used Motor Vehicle Commission LR 30:2482 (November 2004), repromulgated by the Office of the Governor, Motor Vehicle Commission, LR 35:1528 (August 2009), repealed LR 36:1552 (July 2010).

### **§1905. Procedure of Designation of Area of Responsibility**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:781 and 817.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:2481 (November 2004), amended LR 33:1638 (August 2007), repromulgated by the Office of the Governor, Motor Vehicle Commission, LR 35:1528 (August 2009), repealed LR 36:1552 (July 2010).

Lessie A. House  
Executive Director

1007#023

## **RULE**

### **Department of Health and Hospitals Bureau of Health Services Financing**

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals Reimbursement Rate  
Reduction (LAC 50:V.953, 955, 959)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.953, §955 and §959 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

### **Title 50**

## **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part V. Hospital Services**

#### **Subpart 1. Inpatient Hospitals**

### **Chapter 9. Non-Rural, Non-State Hospitals**

#### **Subchapter B. Reimbursement Methodology**

### **§953. Acute Care Hospitals**

A. - G.3. ...

H. Neonatal Intensive Care Units (NICU).

1. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III services with current per diem rates that are less than the NICU Level III specialty peer group rate shall have their per diem rates adjusted to equal 100 percent of the specialty group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying NICU Level III regional services with current per diem rates that are less than 85 percent of the NICU Level III regional specialty group rate shall have their per diem rates adjusted to equal 85 percent of the specialty peer group rate.

I. Pediatric Intensive Care Unit (PICU).

1. Effective for dates of service on or after October 1, 2009, qualifying PICU Level I services with current per diem rates that are less than 77 percent of the PICU Level I specialty group rate shall have their per diem rates adjusted to equal 77 percent of the specialty peer group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying PICU Level II services with current per diem rates that are less than the PICU Level II specialty group rate shall have their per diem rates adjusted to equal 100 percent of the specialty peer group rate.

J. Hospitals Impacted by Hurricane Katrina (Region 1). Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §963.A and outpatient supplemental payments) will not exceed \$170,000,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must be located in DHH Administrative Region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

K. Other Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with those in §959.C and §963.B payments) will not exceed \$10,000,000.

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

L. Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state acute care hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §959.D and §963.C payments) will not exceed \$7,500,000.

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

M. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to acute care hospitals shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

1. Payments to small rural hospitals as defined in R.S. 40:1300 shall be exempt from this reduction.

2. - 2.b. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals,

Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 35:1896 (September 2009), repromulgated LR, 35:2182 (October 2009), amended LR 36:1552 (July 2010).

### **§955. Long Term Hospitals**

A. - C. ...

D. Hurricane Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying long term hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §961.A payments) will not exceed \$500,000.

1. Qualifying Criteria. In order to qualify for the supplemental payment, the long term hospital must have had at least 100 paid Medicaid days for state fiscal year 2008 service dates and must be located in one of the following DHH administrative regions:

- a. Region 1 (New Orleans);
- b. Region 2 (Baton Rouge);
- c. Region 3 (Thibodaux);
- d. Region 5 (Lake Charles); or
- e. Region 9 (Mandeville).

2. Each eligible hospital shall receive quarterly supplemental payments at the rate of \$40 per Medicaid paid day for state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the \$500,000 maximum payment limit for this group is reached, whichever occurs first.

E. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to long term hospitals for inpatient services shall be reduced by 6.3 percent of the per diem rate on file as of August 3, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 35:1896 (September 2009), repromulgated LR 35:2183 (October 2009), amended LR 36:1554 (July 2010).

### **§959. Inpatient Psychiatric Hospital Services**

A. - C. ...

D. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Katrina and Rita. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.F and §961.A payments) will not exceed \$10,000,000.

1. Qualifying Criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.F provisions may receive a supplemental payment if the hospital is located in either the New Orleans or Lake Charles metropolitan statistical area (MSA), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 1,000, but less than or equal to 7,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$130 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

E. Free-Standing Psychiatric Hospitals Impacted by Hurricanes Gustav and Ike. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying free-standing psychiatric hospitals for services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group (along with §953.G and §961.C payments) will not exceed \$7,500,000.

1. Qualifying Criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either DHH Administrative Region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed \$1,200,000 per hospital for the 18 month period.

a. Payments will be distributed as follows using Medicaid paid days for state fiscal year 2008 service dates.

i. Qualifying hospitals with greater than 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$60 per Medicaid paid day.

ii. Qualifying hospitals with greater than 2,500, but less than or equal to 20,000 paid Medicaid days for state fiscal year 2008 service dates will be paid \$105 per Medicaid paid day.

iii. Qualifying hospitals with greater than 1,000, but less than or equal to 2,500 paid Medicaid days for state fiscal year 2008 service dates will be paid \$225 per Medicaid paid day.

b. Payments will end on December 31, 2010 or when the \$1,200,000 limit is reached, whichever occurs first.

F. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals shall be reduced by 5.8 percent of the rate on file as of August 3, 2009.

G. Effective for dates of service on or after August 4, 2009, the prospective per diem rate paid to non-rural, non-state distinct part psychiatric units shall be reduced by 6.3 percent of the rate on file as of August 3, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 35:1896 (September

Alan Levine  
Secretary

1007#086

**RULE**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Intermediate Care Facilities for Persons with  
Developmental Disabilities  
Reimbursement Rate Increase  
(LAC 50:VII.32903)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:VII.32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part VII. Long Term Care**

**Subpart 3. Intermediate Care Facilities for Persons with  
Developmental Disabilities**

**Chapter 329. Reimbursement Methodology**

**Subchapter A. Non-State Facilities**

**§32903. Rate Determination**

A. - I.2.a. ...

J. Effective for dates of service on or after September 1, 2009, the reimbursement rate for non-state intermediate care facilities for persons with developmental disabilities shall be increased by 1.59 percent of the per diem rate on file as of August 31, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010).

Alan Levine  
Secretary

1007#087

**RULE**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Medicaid Eligibility  
Express Lane Eligibility  
(LAC 50:I.Chapter 11)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:III.Chapter 11 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part III. Eligibility**

**Subpart 1. General Administration**

**Chapter 11. Express Lane Eligibility**

**§1101. General Provisions**

A. The Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009, Public Law No. 111-3, established provisions which allowed states to rely on a finding from an Express Lane agency to more effectively reach out and enroll eligible but uninsured children in the Medicaid Program or the Children's Health Insurance Program (CHIP).

B. Express Lane eligibility is an administrative streamlining option that uses data from other government agencies to identify, enroll and retain children who are eligible for Medicaid or CHIP.

C. Express Lane eligibility shall be utilized for enrollment of uninsured children under the age of 19.

D. These provisions shall not apply to eligibility determinations made after September 30, 2013.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010)

**§1103. Eligibility Determinations**

A. The department shall rely on the findings from an Express Lane agency to satisfy one or more of the eligibility components (regardless of any differences in the income budget unit, disregards, deeming of income or other methodologies) required to make an eligibility determination.

1. An Express Lane agency is a public agency that is determined by the department to be capable of making the determinations of one or more of the eligibility requirements defined in the Medicaid State Plan. Express Lane agencies are need-based programs/agencies.

B. The department shall utilize eligibility findings from Express Lane agencies that administer the:

1. Food and Nutrition Act of 2008 (Supplemental Nutrition Assistance Program/SNAP, also known as the Food Stamp Program);

2. Richard B. Russell National School Lunch Act (Free Lunch Program);

3. Child Nutrition Act of 1966 (Women, Infants and Children (WIC) Program);

4. Temporary Assistance for Needy Families (TANF) under Title IV-A;

5. Head Start Act;

6. state program funded under Title IV-D (Child Support Enforcement Services/SES);

7. Child Care and Development Block Grant Act of 1990;

8. Stewart B. McKinney Homeless Assistance Act, the U. S. Housing Act of 1937; and

9. Native American Housing Assistance and Self-Determination Act of 1996.

C. Verification requirements for citizenship or nationality status are applicable to Express Lane eligibility determinations.

D. If a finding from an Express Lane agency results in a determination that a child does not satisfy an eligibility

requirement for Medicaid or CHIP, the department shall determine eligibility for assistance using its regular procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010).

#### **§1105. Automatic Enrollment**

A. The department may initiate and determine Medicaid eligibility based on data from sources other than the child (or the child's family) without an application form; however, a child can only be automatically enrolled for coverage if the:

1. child or family consents to being enrolled through affirmation and signature on an Express Lane agency application; and

2. department has informed the parent, guardian or custodial relative of the:

- a. services that will be covered;
- b. appropriate methods for using such services;
- c. premium or other cost-sharing charges that apply

(if applicable);

d. medical support obligations created by enrollment (if applicable); and

e. actions the parent, guardian or relative must take to maintain enrollment and renew coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1556 (July 2010).

#### **§1107. Disclosure of Eligibility Data**

A. Notwithstanding any other provisions of law, Express Lane agencies in possession of data directly relevant to Express Lane eligibility determinations shall convey such data to the department and shall ensure that the individual (or his parent, guardian, caretaker relative, authorized representative) whose circumstances are described in the data has either provided consent to disclosure, or has not objected to disclosure.

1. Such individuals shall be provided with advance notice of disclosure and a reasonable opportunity to object to the disclosure of their information.

B. Express Lane agency sources of data shall include, but is not limited to, the following:

1. eligibility files;
2. unemployment compensation benefits;
3. wages and income information;
4. Social Security Administration and Internal Revenue Service information;
5. employer wage reports to a state agency;
6. vital records information about births in any state;

or

7. third party health insurance information.

C. Improper Disclosure Penalties

1. Civil Monetary Penalty. A private entity that publishes, discloses, or makes known in any manner or to any extent not authorized by the department any information obtained for the purposes of Express Lane eligibility may be subject to civil monetary penalties for each unauthorized publication or disclosure, pursuant to §1942 of Title XIX of the Social Security Act.

2. Criminal Penalty. A private entity that willfully publishes, discloses, or makes known in any manner or to any extent not authorized by the department any information under this section shall be fined not more than \$10,000 or imprisoned not more than 1 year, or both, for each unauthorized publication or disclosure.

3. The limitations and requirements that apply to Express Lane eligibility data disclosure shall not be construed to prohibit the conveyance or disclosure of data or information otherwise permitted under federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1556 (July 2010).

Alan Levine  
Secretary

1007#088

### **RULE**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

Nursing Facilities  
Reimbursement Rate Reduction  
(LAC 50:VII.1305)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:VII.1305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

#### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part VII. Long Term Care Services**

#### **Subpart 1. Nursing Facilities**

#### **Chapter 13. Reimbursement**

#### **§1305. Rate Determination**

A. - D.1.h.Example. ...

i. For dates of service on or after July 3, 2009, the facility-specific direct care rate will be adjusted in order to reduce the wage enhancement from \$4.70 to a \$1.30 wage enhancement prior to the case-mix adjustment for direct care staff. The \$1.30 wage enhancement will be included in the direct care component of the floor calculations. It is the intent that this wage enhancement be paid to the direct care staff.

i. Effective with the next rebase, on or after July 1, 2010, the wage enhancement will be eliminated.

D.2. - 4.b. ...

5. Adjustment to the Rate. Adjustments to the Medicaid daily rate may be made when changes occur that will eventually be recognized in updated cost report data (such as a change in the minimum wage, a change in FICA or a utility rate change). These adjustments would be effective until the next rebasing of cost report data or until such time as the cost reports fully reflect the change.

6. Budget Shortfall. In the event the department is required to implement reductions in the nursing facility

program as a result of a budget shortfall, a budget reduction category shall be created. Without changing the parameters established in these provisions, this category shall reduce the statewide average Medicaid rate by reducing the reimbursement rate paid to each nursing facility using an equal amount per patient day.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1556 (July 2010).

Alan Levine  
Secretary

1007#089

## RULE

### Department of Health and Hospitals Bureau of Health Services Financing

#### Pediatric Day Health Care Program (LAC 50:XV.Chapters 275-281)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:XV.Chapters 275-281 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services For Special Populations

##### Subpart 19. Pediatric Day Health Care

#### Chapter 275. General Provisions

##### §27501. Program Description and Purpose

A. Pediatric day health care (PDHC) services are an array of services that are designed to meet the medical, social and developmental needs of medically fragile individuals up to the age of 21 who require continuous nursing services and other therapeutic interventions. PDHC services offer a community-based alternative to traditional long term care services or extended nursing services for children with medically complex conditions.

B. These services are provided in a non-residential setting which is licensed as a PDHC facility and enrolled to participate in the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010).

##### §27503. Recipient Criteria

A. In order to qualify for PDHC services, a Medicaid recipient must meet the following criteria. The recipient must:

1. be from birth up to 21 years of age;
2. be considered medically fragile; and
3. require nursing supervision and may require therapeutic interventions all or part of the day due to a medically complex condition.

B. For the purposes of this Chapter, medically fragile means that the individual has a medically complex condition characterized by multiple, significant medical problems that require extended care.

1. Medically fragile conditions include, but are not limited to:

- a. severe lung disease requiring oxygen;
- b. severe lung disease requiring ventilator or tracheotomy care;
- c. complicated spina bifida;
- d. heart disease;
- e. malignancy;
- f. asthmatic exacerbations;
- g. cystic fibrosis exacerbations;
- h. neuromuscular disease;
- i. encephalopathies; or
- j. seizure disorders.

C. Parental Availability. PDHC services may be furnished to a recipient, whose parent or guardian is not available to provide care due to employment, attending school or having a medical or mental condition that would prevent him/her from providing appropriate care for the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010).

#### Chapter 277. Services

##### §27701. Service Coverage and Limitations

A. The Medicaid Program will reimburse a pediatric day health care facility for the following covered services:

1. nursing care;
2. respiratory care;
3. physical therapy;
4. speech-language therapy;
5. occupational therapy;
6. social services;
7. personal care services;
8. transportation to and from the PDHC facility; and
9. one or more meals and snacks per day depending on the child's length of stay.

B. Non-Covered Services. The following services do not qualify as covered PDHC services:

1. education and training services;
2. before and after school care;
3. medical equipment, supplies and appliances;
4. parenteral or enteral nutrition; or
5. infant food or formula.

C. PDHC facility services must be prescribed by the recipient's prescribing physician and an individualized plan of care must be developed for the recipient by the PDHC facility.

D. PDHC services must be prior authorized by the Medicaid Program or its approved designee. Services

provided without authorization shall not be considered for reimbursement, except in the case of retroactive Medicaid eligibility.

E. Service Limitations. Services may be provided seven days per week and up to 12 hours per day for qualified Medicaid recipients as documented in the plan of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010).

#### **Chapter 279. Provider Participation**

##### **§27901. General Provisions**

A. In order to participate in the Medicaid Program, a facility must have a current, valid PDHC facility license issued by the department. Each PDHC facility site shall be separately enrolled in the Medicaid Program.

B. A parent, legal guardian or legally responsible person providing care to a medically fragile child in a home or any other extended care or long-term care facility, is not considered to be a PDHC facility and shall not be enrolled in the Medicaid Program as a PDHC services provider.

C. All enrolled PDHC services providers must comply with all of the licensing standards adopted for pediatric day health care facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010).

#### **Chapter 281. Reimbursement Methodology**

##### **§28101. General Provisions**

A. Reimbursement for PDHC services shall be a statewide fixed per diem rate which is based on the number of hours that a qualified recipient attends the PDHC facility.

1. A full day of service is more than four hours, not to exceed a maximum of 12 hours per day.

2. A partial day of service is four hours or less per day.

B. Reimbursement shall only be made for services authorized by the Medicaid Program or its approved designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) if it is determined that submission to CMS for review and approval is required.

Alan Levine  
Secretary

1007#090

## **RULE**

### **Department of Health and Hospitals Bureau of Health Services Financing**

#### **Pharmacy Benefits Management Program Restoration of the Dispensing Fee (LAC 50:XXIX.Chapter 9)**

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XXIX.Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXIX. Pharmacy**

#### **Chapter 9. Methods of Payment**

#### **Subchapter A. General Provisions**

#### **§901. Definitions**

\* \* \*

*Brand Name*—any registered trade name commonly used to identify a drug.

*Dispensing Fee*—repealed.

*Legend Drugs*—drugs which bear the federal legend: “Caution: federal law prohibits dispensing without a prescription.”

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1061 (June 2006), amended LR 34:87 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010).

#### **Subchapter B. Maximum Allowable Overhead Cost**

#### **§915. Cost Determination**

##### **A. Definitions**

*Adjustment Factors*—

a. CPI—all item factor;

b. CPI—medical care factor;

c. Wage Factor. Each of the above adjustment factors is computed by dividing the value of the corresponding index for December of the year preceding the overhead year and by the value of the index one year earlier (December of the second preceding year);

d. ROI. One year treasury bill rate applied to a portion of prescription drug cost (17 percent) in recognition of inventories maintained for the purpose of filling prescriptions.

*Base Rate*—the rate calculated in accordance with §917.A.2, plus any base rate adjustments which are in effect at the time of calculation of new rates or adjustments. The base rate was initially calculated using the 1990/91 fee

survey findings of average cost for pharmacies representative of the average pharmacy participating in Medicaid reimbursement (15,000 - 50,000 Rx volume). This rate was then inflated forward to December 1990 to establish the first overhead cost maximum.

**Base Rate Components**—the base rate is the summation of the components shown below. Each component is intended to set the maximum allowable for the costs indicated by its name.

Base Rate Component	Adjustment Factor
Pharmacist Salaries	CPI-Medical Care
Other Salaries	WAGE
Other Routine Services	CPI-All Items
Inventory Cost	ROI(1)
Fixed Cost	None(2)
Return on Equity	None (3)
	(1)No return on equity allowed
	(2)No inflation allowed
	(3)Adjusted by ROE Factor
	(4)Indices

a. CPI—All Items. *The Consumer Price Index for all Urban Consumers - Southern Region* (all items line of Table 12) as published by the United States Department of Labor.

b. CPI—Medical Care. *The Consumer Price Index for all Urban Consumers - Southern Region* (Medical Care line of Table 12) as published by the United States Department of Labor.

c. Wage. The average annual wage for production or nonsupervisory service workers as furnished by the Dallas Regional Office of the Bureau of Labor Statistics of the U.S. Department of Labor. This figure will be obtained by telephone in May and will be utilized to calculate the adjustment factor based upon the change which has occurred since December of the preceding year.

d. ROI; Interest Rates—Money and Capital Markets. The average percent per year for one year U.S. Treasury bills taken from the *Federal Reserve Bulletin* report on Money Market Rates (line 17) for the preceding calendar year.

**Maximum Allowable Overhead Cost**—overhead cost is determined through use of cost survey results adjusted by various indices to assure recognition of costs which must be incurred by efficiently and economically operated providers. The cost determined is referred to as a maximum allowable to reflect application of the "lesser of" methodology for determining total reimbursement.

**Overhead Year**—the one-year period from July 1 - June 30 of the next calendar year during which a particular rate is in effect. It corresponds to a state fiscal year.

B. Determination of Limits. Limits on overhead cost are established through the overhead cost survey process which classifies cost in accordance with generally accepted accounting principles and Medicare principles regarding the allowability of cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1062 (June 2006), repealed LR 34:87

(January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010).

**§917. Maximum Allowable Overhead Cost Calculation**

A. The most recent cost survey results will be utilized to establish base cost for professional salaries; other salaries; other routine costs; and fixed cost. Claims processing data for claims paid in the current overhead period will be utilized to determine average drug cost. Seventeen percent of this cost will be utilized as base prescription inventory. The base prescription inventory amount shall not be added to the overhead cost maximum allowable. Base prescription inventory is recognized as an allowable investment subject to a return on investment only. Calculation of maximum allowable overhead cost per prescription shall be performed as follows:

1.  $NORC = ORC \times CPIF$ :
  - a. NORC is the new other routine cost component;
  - b. ORC is the current (base) routine cost component;
  - c. CPIAI is the CPI - All items Economic Adjustment Factor.
2.  $NPS = PS \times CPIMC$ :
  - a. NPS is the new pharmacist salaries cost component;
  - b. PS is the current (base) pharmacist salaries cost component;
  - c. CPIMC is the CPI - Medical Care Economic Adjustment Factor.
3.  $NOS = OS \times W$ :
  - a. NOS is the new other salaries cost component;
  - b. OS is the current (base) salaries cost component;
  - c. W is the Wage Economic Adjustment Factor.
4.  $NROI = ROI \times IR$ :
  - a. NROI is the new return on investment component;
  - b. ROI is 17 percent of the current average drug cost;
  - c. IR is the Interest Rate - Money and Capital Markets

5.  $Rate = (NORC + NPS + NOS + FCC) \times ROEF + NROI$  where:
 

- a. NORC, NPS, NOS, and NROI are computed by formulae in Paragraphs 1-4 above;
- b. FCC is the fixed cost component which does not include prescription drug inventory;
- c. ROEF is the return on equity factor of 1.05 applied to all cost components except return on investment which is calculated separately.

B. After formal adoption of the new maximum allowable overhead cost, the components computed above will become the base components used in calculating the next year's overhead maximum allowable, unless they are adjusted as provided in §911 below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1062 (June 2006), repealed LR 34:87 (January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1559 (July 2010).

### **§919. Parameters and Limitations**

A. Method of Calculation. All calculations described herein shall be carried out algebraically.

B. Rounding in all calculations the base maximum allowable and the base components will be rounded to the nearest one cent (two decimal places) and the economic adjustment factors will be rounded to four decimal places.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006), repealed LR 34:87 (January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1560 (July 2010).

### **§921. Interim Adjustment to Overhead Cost**

A. If an unanticipated change in conditions occurs which affects the overhead costs of at least 50 percent of the enrolled providers by an average of five percent or more, the maximum allowable overhead cost may be adjusted. Medicaid of Louisiana will determine whether or not the maximum allowable overhead cost limit should be changed when requested to do so by 10 percent of the enrolled pharmacies. The burden of proof as to the extent and cost effect of the unanticipated charge will rest with the entities requesting the change. Medicaid of Louisiana, however, may initiate an adjustment without a request to do so.

1. Temporary Adjustments. Temporary adjustments do not affect the base cost used to calculate a new maximum allowable overhead cost limit. Temporary adjustments may be made in the rate when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, occur after the end of the period covered by the index, i.e., after the December preceding the limit calculation. Temporary adjustments are effective only until the next overhead cost limit calculation which uses economic adjustment factors based on index values computed after the change causing the adjustment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006), repealed LR 34:88 (January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1560 (July 2010).

### **§923. Cost Survey**

A. Every three years a cost survey shall be conducted which includes cost data for all enrolled pharmacy providers. Participation shall be mandatory for continued enrollment as a pharmacy provider. Cost data from providers who have less than 12 months of operating data shall not be utilized in determining average overhead cost or grouping providers by prescription volume. Pre-desk reviews shall be performed on all cost surveys to determine an average provider profile based upon total prescription volume. Through statistical analysis, minimum and maximum volume ranges shall be established which represent the majority of providers participating in Medicaid reimbursement. Cost surveys of providers whose prescription volumes are above or below the volume range established, shall not be utilized in calculating average overhead cost. Information submitted by participants shall be desk reviewed for accuracy and completeness. Field examination of a representative sample

of participants shall be primarily random, but geographic location and type of operation shall be taken into consideration in order to ensure examination of pharmacies in various areas of the state and representative of various types of operations.

B. Cost Finding Procedures. The basic analytical rationale used for cost finding procedures shall be that of full costing. Under full costing, all costs associated with a particular operation are summed to find the total cost. The objective of cost finding shall be to estimate the cost of dispensing prescriptions through generally accepted accounting principles.

C. Inflation Adjustment. Where data collected from participating pharmacies represents varying periods of time, cost and price data may be adjusted for the inflation that occurred over the relevant period. The appropriate Consumer Price Index Indicator (Table 12, Southern Region, *Urban Consumer*) and wage indicator produced by the U.S. Department of Labor Statistics shall be utilized.

D. In addition to cost finding procedures, a usual and customary survey shall be included in the survey instrument. This instrument shall be used to determine the following:

1. an average usual and customary charge, or gross margin for each pharmacy;
2. the computation of the net margin per prescription (gross margin less computed dispensing cost per prescription) in order to approximate the average profit per prescription;
3. computation of the average percentage of markup per prescription; and
4. the computation of average usual and customary charges shall include adjustments to allow comparability with upper limits for prescription reimbursement utilized by Medicaid of Louisiana.

E. Statistical Analysis. Statistical analysis shall be undertaken to estimate the cost to pharmacies of dispensing prescriptions. Such analysis shall include, but not be limited to:

1. an average dispensing cost for pharmacies;
2. analysis of the correlations among overhead costs and parameters deemed relevant to pharmacy costs;
3. the statistical relationship between independent variables and dispensing cost shall be analyzed using the techniques of simple linear and stepwise multiple regression. Independent variables may include annual volume of prescriptions filled, pharmacy location, type of ownership, and number of Medicaid claims paid:

a. before regression analysis is performed, efforts shall be made to insure that the data collected during the surveys was accurate and representative, and that errors made during data entry are corrected. Efforts should include tabulations, cross tabulations, data plotting, and visual data inspection.

#### **F. Survey Results**

1. Medicaid of Louisiana shall consider survey results in determining whether the maximum allowable overhead cost should be rebased. Where the overhead cost survey findings demonstrate the current maximum allowable is below average cost or above the eightieth percentile of cost, rebasing shall be required.

2. Medicaid of Louisiana may review the survey data and establish a new cost base utilizing the cost survey

findings and any other pertinent factors, including, but not limited to:

- a. inflation adjustment;
- b. application of return on equity;
- c. recognition of inventory investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1063 (June 2006), repealed LR 34:88 (January 2008), promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1560 (July 2010).

#### **§925. Dispensing Fee**

##### **A. Maximum Allowable Overhead Cost**

1. The maximum allowable overhead cost will remain at the level established for state fiscal year 1994-95. This maximum allowable overhead cost will remain in effect until the dispensing survey is completed and an alternate methodology is determined.

2. No inflation indices or any interim adjustments will be applied to the maximum allowable overhead costs.

B. Provider participation in the Louisiana Dispensing Fee Survey shall be mandatory. Failure to cooperate in the Louisiana Dispensing Fee Survey by a provider shall result in removal from participation as a provider of pharmacy services under Title XIX. Any provider removed from participation shall not be allowed to re-enroll until a dispensing fee survey document is properly completed and submitted to the bureau.

##### **C. Repealed.**

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010).

#### **Subchapter C. Average Wholesale Price**

#### **§935. Estimated Acquisition Cost Formula**

##### **A. - B.1.c. ...**

2. Louisiana's maximum allowable cost limitation plus the maximum allowable overhead cost;

3. federal upper limits plus the maximum allowable overhead cost; or

##### **4. - 4.c. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010).

#### **Subchapter D. Maximum Allowable Costs**

#### **§945. Reimbursement Methodology**

##### **A. ...**

1. The maximum payment by the agency for a prescription shall be no more than the cost of the drug established by the state plus the established dispensing fee.

2. Each pharmacy's records shall establish that the established dispensing fee paid by the Medical Assistance

Program for prescription does not exceed the dispensing fee paid by others. This also applies to the payment for insulin and diabetic testing agency and indwelling catheters and catheterization trays for which the dispensing fee may not exceed 50 percent of the wholesale price.

##### **3. Repealed.**

##### **B. - F. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010).

#### **§949. Cost Limits**

##### **A. - A.1.a. ...**

b. At least three suppliers list the drug (which has been classified by the FDA as category "A" in the aforementioned publication based on listings contained in current editions (or updates) of published compendia of cost information for drugs available for sale nationally.

##### **2. ...**

3. The Medical Assistance Program shall provide pharmacists who participate in Title XIX reimbursement with updated lists reflecting:

##### **3.a. - B.1....**

2. The agency shall make determinations of which multiple source drugs are to be subject to LMAC regulation based on the availability of drugs in the Louisiana Medical Assistance Program. The availability of a drug product will be determined by review of provider claim data. Providers shall be given advanced notice of any additions, deletions, or adjustments in price. Any provider may request and receive at no charge, one complete listing annually.

##### **B.3. - D. ...**

1. Limits on payments for multiple source drugs shall not be applicable when the prescriber certifies in his own handwriting that a specified brand name drug is medically necessary for the care and treatment of a recipient. Such certification may be written directly on the prescription or on a separate sheet which is attached to the prescription. A standard phrase in the prescriber's handwriting, such as "brand necessary" will be acceptable.

##### **D.2. - E.2. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010).

#### **Subchapter E. 340B Program**

#### **§963. Reimbursement**

##### **A. - B. ...**

C. Dispensing Fees. The covered entity shall be paid a dispensing fee of \$8.10 for each prescription dispensed to a Medicaid patient, unless the covered entity has implemented the carve-out option, in which case the covered entity shall be paid the state's existing maximum allowable overhead cost. With respect to contract pharmacy arrangements in

which the contract pharmacy also serves as the covered entity's billing agent, the contract pharmacy shall be paid the \$8.10 dispensing fee on behalf of the covered entity, unless the covered entity elects the Medicaid carve-out, in which case the contract pharmacy shall be paid the state's existing maximum allowable overhead cost.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010).

Alan Levine  
Secretary

1007#091

## **RULE**

### **Department of Natural Resources Office of Conservation**

#### **Exploration and Production Site Groundwater Evaluation and Remediation—Statewide Order No. 29-B (LAC 43:XIX.Chapter 8)**

The Louisiana Office of Conservation has adopted Chapter 8 which applies to and provides procedures for the evaluation or remediation of groundwater conditions and potential sources that may have contributed to those conditions at oil and gas exploration and production sites pursuant to compliance with the requirements of Chapters 3, 4, 5 or 6 of LAC 43:XIX.Subpart 1 (Statewide Order No. 29-B). The amendments to the above existing Rules are intended to codify practices already being implemented under the authority of the Commissioner of Conservation.

#### **Title 43**

#### **NATURAL RESOURCES**

#### **Part XIX. Office of Conservation—General Operations Subpart 1. Statewide Order No. 29-B Chapter 8. Exploration and Production Site Groundwater Evaluation and Remediation**

#### **§801. Authority**

A. These rules and regulations are promulgated by the Commissioner of Conservation pursuant to the Administrative Procedure Act as contemplated in R.S. 30:4 et seq.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:4 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:1562 (July 2010).

#### **§803. Definitions**

A. The words defined herein shall have the following meanings when used in these rules. All other words so used and not herein defined shall have their usual meanings unless specifically defined in Title 30 of the Louisiana Revised Statutes of 1950.

**Commissioner**—the Commissioner of Conservation of the State of Louisiana.

**Commercial Facility**—a legally permitted E and P Waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, and/or disposes of E and P Waste for a fee or other consideration.

**Constituent**—constituent of concern.

**Constituent of Concern**—the parameters listed under the requirements of LAC 43:XIX.Subpart 1 applicable to the specific site conditions under review.

**DEQ**—the Louisiana Department of Environmental Quality.

**DNR**—the Louisiana Department of Natural Resources.

**EPA**—the United States Environmental Protection Agency.

**Evaluation or Remediation**—includes, but is not limited to, investigation, testing, monitoring, containment, prevention, or abatement.

**Exploration and Production Waste (E and P Waste)**—drilling wastes, salt water, and other wastes associated with the exploration, development, or production of crude oil or natural gas wells and which is not regulated by the provisions of, and, therefore, exempt from the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act, as amended.

**Groundwater Background Concentration**—as required by and set forth in LAC 43:XIX.303.C for parameters listed under LAC 43:XIX.311.C; or as required by and set forth in LAC 43:XIX.539.E.2 or 541 for parameters listed under LAC 43:XIX.549.E.2. As required by and set forth in LAC 43:XIX.421.A for parameters listed under LAC 43:XIX.311.C.

**MO-3**—Management Option 3 as defined in RECAP 1.1.4.

**NFA**—no further action is deemed necessary at this time.

**Oilfield Site or Exploration and Production (E and P) Site**—any tract of land or any portion thereof on which oil or gas exploration, development, or production activities have occurred, including wells, equipment, tanks, flow lines or impoundments used for the purposes of the drilling, workover, production, primary separation, disposal, transportation or storage of E and P wastes, crude oil and natural gas processing, transportation or storage of a common production stream of crude oil, natural gas, coal seam natural gas, or geothermal energy prior to a custody transfer or a sales point. In general, this definition would apply to all exploration and production operations located on the same lease, unit or field.

**Onsite**—for purposes of this Section, on the same lease or contiguous property owned by the lessor, or within the confines of a drilling unit established for a specific well or group of wells.

**RECAP**—the DEQ Risk Evaluation/Corrective Action Program.

**SERP Manual**—the DNR Site Evaluation and Remediation Procedures manual.

**Submitter**—any individual or entity providing a site evaluation or remediation plan for agency review.

**Transfer Station**—an E and P Waste receiving and storage facility, located offsite, but operated at an approved location in conjunction with a permitted commercial facility, which is used for temporary storage of manifested E and P Waste for a period of 30 days or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:1562 (July 2010)

#### **§805. Applicability**

A. This Chapter shall apply to and provide procedures for the evaluation or remediation of groundwater conditions at exploration and production sites pursuant to compliance with the requirements of Chapters 3, 4, 5, or 6 of LAC 43:XIX.Subpart 1 (Statewide Order No. 29-B) as an exception to Statewide Order No. 29-B groundwater background concentration requirements to address present or past uncontrolled constituent releases to the environment.

B. Agency approval of any evaluation or remediation plan and subsequent issuance of a NFA letter shall satisfy the conditions set forth in LAC 43:XIX.319.A, 431.A, or 569.A for an exception to the applicable requirements.

C.1. For matters not subject to ACT 312 of 2006 or LAC 43:XIX.Subpart 1.Chapter 6, this Chapter shall apply to the evaluation or remediation of groundwater conditions where:

a. the groundwater impact originates from an E and P Waste source, and

b. the E and P Waste source impacting groundwater is located onsite or within the permitted boundaries of a commercial facility or transfer station.

2. If either of these two conditions not exist, the matter shall be referred to the appropriate regulatory agency.

D. For sites subject to ACT 312 of 2006 or LAC 43:XIX.Subpart 1.Chapter 6, this Chapter shall only apply to the evaluation or remediation of groundwater conditions where groundwater impact originates from an E and P Waste source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:1563 (July 2010).

#### **§807. General Requirements**

A. All documentation submitted to the agency pursuant to these regulations shall adequately demonstrate compliance with the conditions set forth in the "Louisiana Department of Natural Resources Exploration and Production Site Evaluation and Remediation Procedures Manual (SERP Manual)" authorized by the commissioner and effective upon final promulgation of this Chapter.

B. Where applicable and practicable, the SERP Manual shall include site evaluation and remediation protocol and procedures established in conformance with the DEQ Risk Evaluation/Corrective Action Program (RECAP) document.

C. The SERP Manual shall at a minimum provide for procedures to:

1. perform comprehensive site assessments;
2. sample, test and evaluate soils and groundwater;
3. establish background groundwater or soil conditions;
4. fully delineate the horizontal and vertical extent of impacts to soil or groundwater;
5. develop and implement remediation plans;
6. issue NFAs;
7. properly notify landowners;
8. properly file courthouse conveyance records;
9. address chlorides and other applicable Statewide Order 29-B salt parameters;

10. allow composite sampling for screening purposes only; and

11. specifically address hydrocarbon, metals and other constituents found in E and P Waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:1563 (July 2010).

#### **§809. Agency Review and Approval**

A. All site evaluation or remediation plans or final results submitted pursuant to MO-3 assessments, or addressing air, surface water, water bottoms (sediments) or non-Statewide Order No. 29-B parameters shall be forwarded to DEQ for review and comment. Only said plans or final results reviewed and reported in writing by DEQ as acceptable shall be approved by the Office of Conservation. All other site evaluation or remediation plans or final results meeting the requirements of this Chapter may be approved by the commissioner or his designee without the written consent of DEQ, unless otherwise determined by the commissioner that written consent of DEQ is warranted.

B. Upon acceptance of site evaluation or remediation documentation adequately demonstrating compliance with these rules and that no further action will be necessary, the agency shall issue a letter stating that "no further action is deemed necessary at this time (NFA)."

C. These regulations and SERP Manual procedures do not preclude emergency response or interim measures necessary to protect human health and the environment or to prevent significant migration of constituents of concern. These regulations and SERP Manual procedures do not authorize any injury to private or public property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations, and do not authorize the migration of constituents of concern offsite to adjacent property. It is the responsibility of the submitter to ensure that risks to human health and the environment are addressed and that decisions concerning management of the release site are protective of human health and the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 36:1563 (July 2010).

James H. Welsh  
Commissioner

1007#021

#### **RULE**

#### **Department of Public Safety and Corrections Office of the State Fire Marshal**

Code Enforcement and Building Safety  
Fire Protection (LAC 55:V.103 and 303)

In accordance with the provisions of R.S. 40:1578.6(A), relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby amends the following Section regarding the establishment of minimum standards.

**Title 55**  
**PUBLIC SAFETY**  
**Part V. Fire Protection**

**Chapter 1. Preliminary Provisions**

**§103. General Provisions**

A. It shall be the policy of the State Fire Marshal that in all instances or specifications provided in the statutes or in the codes referenced by the statutes, or by any specific references in administrative rulings by the State Fire Marshal, that the *Standard Building Code* published by the Southern Building Code Congress International, and the *International Building Code* published by the International Code Council, and the *National Fire Codes* published by the National Fire Protection Association as specifically identified in the following list, shall be used as the materials for determinations by the State Fire Marshal.

NFPA 1	2009 Edition	Fire Code
NFPA 10	2010 Edition	Standard for Portable Fire Extinguishers
NFPA 11	2010 Edition	Standard for Low-, Medium-, and High-Expansion Foam
NFPA 12	2008 Edition	Standard on Carbon Dioxide Extinguishing Systems
NFPA 12A	2009 Edition	Standard on Halon 1301 Fire Extinguishing Systems
NFPA 13	2010 Edition	Standard for the Installation of Sprinkler Systems
NFPA 13D	2010 Edition	Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes
NFPA 13R	2010 Edition	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height
NFPA 14	2010 Edition	Standard for the Installation of Standpipes-and Hose Systems
NFPA 15	2007 Edition	Standard for Water Spray Fixed Systems for Fire Protection
NFPA 16	2007 Edition	Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems
NFPA 17	2009 Edition	Standard for Dry Chemical Extinguishing Systems
NFPA 17A	2009 Edition	Standard for Wet Chemical Extinguishing Systems
NFPA 18	2010 Edition	Standard on Wetting Agents
NFPA 20	2010 Edition	Standard for the Installation of Stationary Pumps for Fire Protection
NFPA 22	2008 Edition	Standard for Water Tanks for Private Fire Protection
NFPA 25	2008 Edition	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
NFPA 30	2008 Edition	Flammable and Combustible Liquids Code
NFPA 30A	2008 Edition	Code for Motor Fuel Dispensing Facilities and Repair Garages
NFPA 30B	2007 Edition	Code for the Manufacture and Storage of Aerosol Products
NFPA 31	2006 Edition	Standard for the Installation of Oil-Burning Equipment
NFPA 32	2007 Edition	Standard for Drycleaning Plants
NFPA 33	2007 Edition	Standard for Spray Application Using Flammable or Combustible Materials
NFPA 34	2007 Edition	Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids

NFPA 37	2010 Edition	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines
NFPA 45	2010 Edition	Standard on Fire Protection for Laboratories Using Chemicals
NFPA 51	2007 Edition	Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes
NFPA 51B	2009 Edition	Standard for Fire Prevention During Welding, Cutting, and Other Hot Work
NFPA 52	2010 Edition	Vehicular Gaseous Fuel Systems Code
NFPA 53	2010 Edition	Recommended Practice on Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres
NFPA 54	2009 Edition	National Fuel Gas Code
NFPA 55	2010 Edition	Compressed Gases and Cryogenic Fluids Code
NFPA 58	2008 Edition	Liquefied Petroleum Gas Code
NFPA 59A	2009 Edition	Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 61	2008 Edition	Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities
NFPA 68	2007 Edition	Standard on Explosion Protection by Deflagration Venting
NFPA 69	2008 Edition	Standard on Explosion Prevention Systems
NFPA 70	2008 Edition	National Electrical Code
NFPA 72	2010 Edition	National Fire Alarm and Signaling Code
NFPA 80	2010 Edition	Standard for Fire Doors and Other Opening Protectives
NFPA 82	2009 Edition	Standard on Incinerators and Waste and Linen Handling Systems and Equipment
NFPA 88A	2007 Edition	Standard for Parking Structures
NFPA 90A	2009 Edition	Standard for the Installation of Air-Conditioning and Ventilating Systems
NFPA 90B	2009 Edition	Standard for the Installation of Warm Air Heating and Air-Conditioning Systems
NFPA 92A	2009 Edition	Standard for Smoke-Control Systems Utilizing Barriers and Pressure Differences
NFPA 92B	2009 Edition	Guide for Smoke Management Systems in Malls, Atria, and Large Spaces
NFPA 96	2008 Edition	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations
NFPA 99	2005 Edition	Standard for Health Care Facilities
NFPA 99B	2010 Edition	Standard for Hypobaric Facilities
NFPA 101	2009 Edition	Life Safety Code
NFPA 101A	2010 Edition	Guide on Alternative Approaches to Life Safety
NFPA 102	2006 Edition	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures
NFPA 105	2010 Edition	Standard for the Installation of Smoke Door Assemblies and Other Opening Protectives
NFPA 110	2010 Edition	Standard for Emergency and Standby Power Systems
NFPA 111	2010 Edition	Standard on Stored Electrical Energy Emergency and Standby Power Systems

NFPA 140	2008 Edition	Standard on Motion Picture and Television Production Studio Soundstages, Approved Production Facilities, and Production Locations
NFPA 150	2009 Edition	Standard on Fire and Life Safety in Animal Housing Facilities
NFPA 160	2006 Edition	Standard for the Use of Flame Effects Before an Audience
NFPA 170	2009 Edition	Standard for Fire Safety and Emergency Symbols
NFPA 204	2007 Edition	Standard for Smoke and Heat Venting
NFPA 211	2010 Edition	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances
NFPA 220	2009 Edition	Standard on Types of Building Construction
NFPA 221	2009 Edition	Standard for High Challenge Fire Walls, Fire Walls, and Fire Barrier Walls
NFPA 303	2006 Edition	Fire Protection Standard for Marinas and Boatyards
NFPA 307	2006 Edition	Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves
NFPA 407	2007 Edition	Standard for Aircraft Fuel Servicing
NFPA 409	2010 Edition	Standard on Aircraft Hangars
NFPA 415	2008 Edition	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways
NFPA 418	2006 Edition	Standard for Heliports
NFPA 484	2009 Edition	Standard for Combustible Metals
NFPA 495	2010 Edition	Explosive Materials Code
NFPA 654	2006 Edition	Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids
NFPA 664	2007 Edition	Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities
NFPA 701	2010 Edition	Standard Methods of Fire Tests for Flame Propagation of Textiles and Films
NFPA 703	2009 Edition	Standard for Fire-Retardant Treated Wood and Fire-Retardant Coatings for Building Materials
NFPA 750	2010 Edition	Standard on Water Mist Fire Protection Systems
NFPA 801	2008 Edition	Standard for Fire Protection For Facilities Handling Radioactive Materials
NFPA 820	2008 Edition	Standard for Fire Protection in Wastewater Treatment and Collection Facilities
NFPA 901	2006 Edition	Standard Classifications for Incident Reporting and Fire Protection Data
NFPA 909	2010 Edition	Code for the Protection of Cultural Resources Properties - Museums, Libraries, and Places of Worship
NFPA 914	2010 Edition	Code for Fire Protection of Historic Structures
NFPA 1031	2009 Edition	Standard for Professional Qualifications for Fire Inspector and Plan Examiner
NFPA 1123	2010 Edition	Code for Fireworks Display
NFPA 1124	2006 Edition	Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles
NFPA 1126	2006 Edition	Standard for the Use of Pyrotechnics before a Proximate Audience
NFPA 1221	2010 Edition	Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems

NFPA 1402	2007 Edition	Guide to Building Fire Service Training Centers
NFPA 1403	2007 Edition	Standard on Live Fire Training Evolutions
NFPA 1961	2007 Edition	Standard on Fire Hose
NFPA 1962	2008 Edition	Standard for the Inspection, Care, and Use of Fire Hose, Couplings, and Nozzles and the Service Testing of Fire Hose
NFPA 2001	2008 Edition	Standard on Clean Agent Fire Extinguishing Systems

B. All inspections and other evaluations of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal for review shall be made utilizing new construction requirements set forth in the *Life Safety Code* published by the National Fire Protection Association and the "Special Provisions for High-Rise Building" Section of the *Standard Building Code* published by the Southern Building Code Congress International as follows.

Building Constructed or Remodeled	Life Safety Code Edition	Section/Standard Building Code Edition	Sections/International Building Code Edition
prior to 1/1/1975	1967	-	-
1/1/1975 to 12/31/1979	1973	518 / 1974 Chapter 4 revisions to 1973	-
1/1/1980 to 8/31/1981	1976	518 / 1974 Chapter 4 revisions to 1973	-
9/1/1981 to 8/31/1986	1981	506 / 1979	-
9/1/1986 to 2/18/1989	1985	506 / 1985	-
2/19/1989 to 5/31/1992	1988	506 / 1985	-
6/1/1992 to 1/4/1995	1991	506 / 1988	-
1/5/1995 to 5/31/1998	1994	506 / 1991	-
6/1/1998 to 6/30/2001	1997	412 / 1994	-
7/1/2001 to 12/31/2001	2000	412 / 1994	-
1/1/2002 to 6/30/2004	2000	412 / 1997	-
7/1/2004 to 9/30/2007	2003	-	-
10/1/2007 to 6/30/2010	2006	-	-
after 7/1/2010	2009	-	-

C. All references to performance based criteria in the *Life Safety Code* shall only be considered by the Office of State Fire Marshal after an appeal of a decision has been timely made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:857 (June 2001), LR 27:2257 (December 2001), repromulgated LR 29:183 (February 2003), amended LR 30:1303 (June 2004), LR 33:671 (April 2007), LR 36:1564 (July 2010).

### Chapter 3. Buildings

#### §303. Plans and Specifications for New Buildings

A. As of July 1, 2010, the plans and specifications for every structure built or remodeled in the state of Louisiana must be drawn in accordance with the requirements of the 2009 Edition of the *Life and Safety Code* (excluding Chapter 5) of the National Fire Protection Association. Chapter 5,

Performance-Based Option, may be used as a basis for appeal equivalency determinations.

B. - D. ...

E. Regarding "building rehabilitation," compliance in accordance with LAC 55:V.103.B shall be considered by the Office of State Fire Marshal as an equivalent alternative for compliance with the applicable existing chapter, where the applicable existing chapters are prescribed in the latest adopted NFPA 101 Life Safety Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:143 (February 1975), amended LR 5:468 (December 1979), LR 6:72 (February 1980), amended by the Office of the State Fire Marshal, LR 7:344 (July 1981), LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 12:116 (February 1986), LR 15:96 (February 1989), LR 17:1115 (November 1991), LR 23:1692 (December 1997), amended LR 30:1305 (June 2004), LR 33:673 (April 2007), LR 36:1565 (July 2010).

Jill P. Boudreaux  
Undersecretary

1007#030

#### **RULE**

#### **Department of Revenue Policy Services Division**

#### **Sales and Use Tax Exemptions (LAC 61:I.4401)**

Under the authority of R.S. 47:301(16)(p), R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4401.D.3 by repealing the definition of the term newspaper. Newspapers were formerly exempted from sales taxes pursuant to R.S. 47:305(D)(1)(e) and R.S. 47:337.9(C)(10). However, Act 480 of the 2007 Regular Session repealed both R.S. 47:305(D)(1)(e) and R.S. 47:337.9(C)(10) and replaced the exemption with a sales tax exclusion for newspapers. Under Act 480, newspapers became excluded from the definition of tangible personal property. The definition of the term newspaper contained in LAC 61:I.4401.D.3 has been rendered obsolete by the repeal of R.S. 47:305(D)(1)(e) and R.S. 47:337.9(C)(10). Therefore the definition of newspaper found in LAC 61:I.4401.D.3 should be repealed.

#### **Title 61**

#### **REVENUE AND TAXATION**

#### **Part I. Taxes Collected and Administered by the Secretary of Revenue**

#### **Chapter 44. Sales and Use Tax Exemptions**

#### **§4401. Various Exemptions from Tax**

A. - D.2. ...

3. Repealed.

D.4. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 29:1520 (August 2003), LR 30:2864 (December 2004), LR 36:1566 (July 2010).

Cynthia Bridges  
Secretary

1007#054

#### **RULE**

#### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **General and Wildlife Management Area Hunting (LAC 76:XIX.111)**

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

#### **Title 76**

#### **WILDLIFE AND FISHERIES**

#### **Part XIX. Hunting and WMA Regulations**

#### **Chapter 1. Resident Game Hunting Season**

#### **§111. General and Wildlife Management Area Hunting Rules and Regulations**

#### **A. Hunting Seasons and Wildlife Management Area (WMA) Regulations**

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the Louisiana Revised Statutes of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The Secretary of the Department of Wildlife and Fisheries (LDWF) has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the LDWF a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

#### **B. Resident Game Birds and Animals**

1. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

#### **C. Other Season Dates**

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 rimfire firearm. A licensed hunter may take raccoon or opossum with .22 rimfire rifle, .36 caliber or smaller muzzleloader rifle or shotgun during daylight hours. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season

except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is two per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria. On WMAs and private property nutria may be taken recreationally by licensed hunters from September 1 through the last day of February, during legal shooting hours by any legal hunting method with a daily limit of five. When taken with a shotgun, steel shot must be used. On WMAs during waterfowl seasons, nutria may be taken only with the use of shotguns with shot no larger than F steel, and during gun deer seasons, anyone taking nutria must display 400 square inches of "hunter orange" and wear a "hunter orange" cap or hat. Recreational nutria hunters must remove each nutria carcass in whole condition from the hunting area, except that nutria may be gutted. Possession of detached nutria parts, including nutria tails, by recreational hunters is illegal. Nutria harvested recreationally may not be pelted nor may such nutria or any nutria parts from recreationally taken nutria be sold, including the tail. Trespassing upon private property for the purpose of taking nutria or other furbearing animals is punishable by fines and possible jail time (R.S. 56:265). The Coastwide Nutria Control Program is a separate program and is in no way related to the nutria recreational season. For questions on the Coastwide Nutria Control Program, call the New Iberia office (337) 373-0032.

4. Blackbirds and crows. The season for crows shall be September 1 through January 1 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredating or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredators and that crows have been implicated in the spread of the West Nile virus in humans.

5. Pheasant. Open concurrently with the quail season; no limit.

6. Falconry. Special permit required. Resident and migratory game species may be taken except turkeys. Seasons and bag limits are the same as for statewide and WMA regulations. Refer to LAC 76:V.301 for specific Falconry Rules.

7. Licensed Hunting Preserve. October 1 - April 30. Pen-raised birds only. No limit entire season. Refer to LAC 76:V.305 for specific Hunting Preserve Rules.

8. Deer Management Assistance Program (DMAP). Land enrolled in the voluntary program will be assessed a \$25 registration fee and 5¢/acre fee. Deer management assistance tags must be in the possession of the hunter in order to harvest an antlerless deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported (including those taken on either-sex days and those taken with approved archery equipment and primitive firearms). Antlerless deer harvested on property enrolled in DMAP does not count in the season

or daily bag limit for hunters. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved. DMAP participants must follow the deer season schedule established for their respective areas. Refer to LAC 76:V.111 for specific DMAP Rules.

9. Landowner Assistance Deer Tag (LADT)

a. Eligibility for LADT is limited to the following landowners or lessees:

- i. License Deer Farmers;
- ii. Landowners or lessees with less than 500 acres who have verified deer depredation problems;
- iii. Landowners with 40 acres or more enrolled in the Louisiana Forest Stewardship Program; and
- iv. Landowners or lessees with 40 or more contiguous acres of forested or marsh land.

b. Each applicant will be assessed a \$25 administrative processing fee. Each hunter must have the Landowner Antlerless Deer Tag in his possession while hunting on the property for which the tag was issued and immediately upon kill of an antlerless deer, the hunter must tag the animal through the hock. The deer must be tagged before it is transported from the site of kill and the tag will remain with the deer while the hunter is in route to his domicile. Antlerless deer harvested on property enrolled in LADT does not count in the season or daily bag limit for hunters. LADT participants must follow the deer season schedule established for their respective areas. For more information, contact any Wildlife Division Region Office.

10. Farm Raised White-tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

*Exotics*—for purposes of this rule means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

*Hunting*—in its different tenses and for purposes of this rule means to take or attempt to take, in accordance with R.S. 56:8.

*Same as Outside*—for purposes of this rule means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission.

*Supplemented Hunting Preserve*—for purposes of this rule means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the LDWF and is authorized in writing by the LDAF and LDWF to permit hunting.

*White-Tailed Deer*—for purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a Supplemented Hunting Preserve.

b. Seasons

i. Farm-Raised White-tailed Deer: consult the regulations pamphlet.

ii. Exotics: year round.

- c. Methods of Take
  - i. White-tailed Deer: same as outside.
  - ii. Exotics: Exotics may be taken with longbow (including compound bow and crossbow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets and other approved primitive firearms.
- d. Shooting Hours
  - i. White-tailed Deer: same as outside.
  - ii. Exotics: one-half hour before sunrise to one-half hour after sunset.
- e. Bag Limit
  - i. Farm-Raised White-tailed Deer: same as outside.
  - ii. Exotics: No limit.
- f. Hunting Licenses
  - i. White-tailed Deer: same as outside.
  - ii. Exotics: No person shall hunt any exotic without possessing a valid basic and big game hunting license.
- g. Tagging. White-tailed Deer and Exotics: Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

11. Bobcat. No person other than the holder of a valid big game license may take or possess bobcat, except licensed trappers who may take or possess bobcat during the open trapping season. A big game licensee shall only take bobcat during the time period from one-half hour before sunrise to one-half hour after sunset with approved archery equipment, shotgun, muzzleloader or centerfire firearm. A big game licensee shall not take more than one bobcat per calendar year. This regulation applies only to property that is privately owned, state WMAs, and the Bayou des Ourses, Bodcau, Bonnet Carre, Indian Bayou, Loggy Bayou and Soda Lake tracts owned by the Corps of Engineers but does not apply to state wildlife refuges, the Kisatchie National Forest, or other federally owned refuges and lands. On state WMAs, the take of bobcat is restricted to those open seasons on the WMAs which require the respective legal weapons noted above.

#### D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. All persons born on or after September 1, 1969 must show proof of satisfactorily completing a Hunter Safety course approved by LDWF to purchase a Basic Hunting License, except any active or veteran member of the United States armed services or any POST-certified law enforcement officer. Application for the exemption shall be filed in person at the LDWF main office building in the city of Baton Rouge. A person younger than 16 years of age may hunt without such certificate if he is accompanied by, and is

under the direct supervision of a person 18 years of age or older.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer. A separate wild turkey license is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

#### 5. Methods of Taking Resident Game Birds and Quadrupeds

a. It is illegal to intentionally feed, deposit, place, distribute, expose, scatter, or cause to be fed, deposited, placed, distributed, exposed, or scattered raw sweet potatoes to wild game quadrupeds.

b. Use of a longbow (including compound bow and crossbow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22 caliber rimfire or a primitive firearm larger than .36 caliber. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

c. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

6. Nuisance Animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the LDWF, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a region office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the LDWF. This permit shall be valid for 30 days from the date of issuance. Contact the local region office for details.

7. Threatened and Endangered Species - Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher

tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. **Outlaw Quadrupeds.** Holders of a legal hunting license may take coyotes, feral hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to chase only when using dogs during still hunting segments of the firearm and archery only season for deer. Foxes are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. **Hunting and/or Discharging Firearms on Public Roads.** Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

10. **Tags.** Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with approved archery and primitive firearms, and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

11. **Sex Identification.** Positive evidence of sex identification, including the head, shall remain on any deer taken or killed within the State of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is in route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

#### E. General Deer Hunting Regulations

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain deer tags and have in possession when hunting deer. Immediately upon harvesting a deer, the hunter must tag the deer with the appropriate carcass tag and document the kill on the deer tag license. Within 72 hours the hunter must validate the kill and record the validation number on the license. Hunters harvesting deer on DMAP and LADT lands can validate deer per instructions by LDWF using the DMAP and LADT harvest

data sheets. Hunters on WMAS can validate deer during mandatory deer check hunts, when deer check stations are in operation. Hunters may validate deer by calling the validation toll free number or using the validation web site.

2. One antlered and one antlerless deer per day (when legal) except on National Forest Lands and some Federal Refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, three antlered bucks and three antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP and LADT does not count in the season or daily bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all segments included) except in the following parishes: West Carroll and portions of East Carroll. Consult regulations pamphlet, modern firearms table for either-sex days for these parishes. This does not apply to public lands (WMAs, National Forest Lands, and Federal Refuges) which will have specified either-sex days.

3. A legal buck is a deer with visible antler of hardened bony material, broken naturally through the skin. Killing bucks without at least one visible antler as described above and killing antlerless deer is prohibited except where specifically allowed and except in Thistlethwaite WMA where a legal buck shall be defined as deer with at least 4 points on one side or a deer with unbranched antlers commonly referred to as spikes (no minimum length). To be counted as a point, a projection must be at least one inch long and its length must exceed the length of its base. The beam tip is counted as a point but not measured as a point.

4. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

5. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

6. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

7. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. A leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

8. It is illegal to take deer while deer are swimming or while the hunter is in a boat with motor attached in operating position; however the restriction in this paragraph shall not apply to any person who has lost one or more limbs.

9. Areas not specifically designated as open are closed.

10. Primitive Firearms Segment: (Special license and primitive firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.) Still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Primitive firearms license required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except Area 5 and as specified on Public Areas. It is unlawful to carry a gun, other than a primitive firearm, including those powered by air or other means, while hunting during the special primitive firearms segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Primitive Firearms For Special Season: Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and may be fitted with magnified scopes. This includes muzzleloaders known as "inline" muzzleloaders.

b. Single shot, breech loading rifles, .38 caliber or larger, of a kind or type manufactured prior to 1900 and replicas, reproductions or reintroductions of that type rifle having an exposed hammer that use metallic cartridges loaded either with black powder or modern smokeless powder and may be fitted with magnified scopes.

c. Special Youth Deer Shotgun Season on Private Land (either-sex): Youths 17 or younger may hunt deer with shotguns using slugs only during the Primitive Firearms Season in each deer hunting area.

11. Archery Segment: Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, and except in Area 6 from October 1-15. Archer's must conform to the bucks only regulations. Either-sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (see schedule).

a. Bow and arrow regulations: Longbow, compound bow and crossbow or any bow drawn, held or released by mechanical means will be a legal means of take for all properly licensed hunters. Hunting arrows for deer must have well-sharpened broadhead points. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season EXCEPT it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only.

(b). to have in possession or use any poisoned or drugged arrow or arrows with explosive tips.

(c). to hunt deer with a bow having a pull less than 30 pounds.

(d). to hunt with a bow or crossbow fitted with an infrared, laser sight, electrically-operated sight or device specifically designed to enhance vision at night (does not include non-projecting red dot sights) [R.S. 56:116.1.A.(3)].

12. Hunter Orange. Any person hunting any wildlife during the open gun deer hunting season and possessing buckshot, slugs, a primitive firearm, or a centerfire rifle shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange". Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed.

WARNING: DEER HUNTERS ARE CAUTIONED TO WATCH FOR PERSONS HUNTING OTHER GAME OR ENGAGED IN ACTIVITIES NOT REQUIRING "HUNTER ORANGE".

13. Special Physically Challenged either-sex deer season on private land: 1st Saturday of October for 2 days. Restricted to individuals with Physically Challenged Hunter Permit.

14. Special Youth Deer Hunt on Private Lands (Either-Sex). Areas 1, 4, 5 and 6 - last Saturday of October for 2 days; Area 2 - 2<sup>nd</sup> Saturday of October for 2 days; and Areas 3, 7 and 8 - 4<sup>th</sup> Saturday of September for 2 days. Youths 17 or younger only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. Except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult.

#### F. Description of Areas

##### 1. Area 1

a. All of the following parishes are open: Concordia, East Baton Rouge, East Feliciana, Franklin, Madison, St. Helena, Tensas, Washington.

b. Portions of the following parishes are also open:

i. Catahoula—east of Boeuf River to Ouachita River, east of Ouachita River from its confluence with Boeuf River to LA 8, south and east of LA 8 southwesterly to Parish line.

ii. East Carroll—east of mainline Mississippi River Levee and south and east of LA 877 from West Carroll Parish line to LA 580, south of LA 580 to US 65, west of US 65 to Madison Parish line.

iii. Grant—east of US 165 and south of LA 8.

iv. LaSalle—south of a line beginning where Little River enters Catahoula Lake following the center of the lake eastward to Old River then to US 84, east of US 84 northward to LA 8, south of LA 8 eastward to Parish line.

v. Livingston—north of I-12.

vi. Rapides—east of US 165 and north of Red River.

vii. St. Tammany—all except that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

viii. Tangipahoa—north of I-12.

ix. West Feliciana—all except that portion known as Raccourci and Turnbull Island.

c. Still hunting only in all or portions of the following parishes:

i. Catahoula—south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek.

ii. East Carroll—east of mainline Mississippi River Levee and south and east of LA 877 from West Carroll Parish line to LA 580, south of LA 580 to US 65, west of US 65 to Madison Parish line.

iii. East Feliciana and East Baton Rouge—east of Thompson Creek from the Mississippi state line to LA 10, north of LA 10 from Thompson Creek to LA 67 at Clinton, west of LA 67 from Clinton to Mississippi state line, south of Mississippi state line from LA 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of LA 67 from LA 64 north to Parish Line, south of Parish Line from LA 64 eastward to Amite River, west of Amite River southward to LA 64, north of LA 64 to LA 37 at Magnolia, east of LA 37 northward to LA 64 at Indian Mound, north of LA 64 from Indian Mound to LA 67. Also, that portion of East Feliciana Parish east of LA 67 from parish line north to LA 959, south of LA 959 east to LA 63, west of LA 63 to Amite River, west of Amite River southward to parish line, north of parish line westward to LA 67.

iv. Franklin—all.

v. St. Helena—north of LA 16 from Tickfaw River at Montpelier westward to LA 449, east and south of LA 449 from LA 16 at Pine Grove northward to Rohner Road, south of Rohner Road to LA 1045, south of LA 1045 to the Tickfaw River, west of the Tickfaw River from LA 1045 southward to LA 16 at Montpelier.

vi. Tangipahoa—that portion of Tangipahoa Parish north of LA 10 from the Tchefuncte River to LA 1061 at Wilmer, east of LA 1061 to LA 440 at Bolivar, south of LA 440 to the Tchefuncte River, west of the Tchefuncte River from LA 440 southward to LA 10.

vii. Washington and St. Tammany—east of LA 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from LA 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River

Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to LA 21. Also, that portion of Washington Parish west of LA 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany Parish line, north of the St. Tammany Parish line to the Tangipahoa Parish line, east of the Tangipahoa Parish line to the Mississippi state line, south of the Mississippi state line to its junction with LA 25.

viii. West Feliciana—west of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of US 61 and LA 966, east of LA 966 from US 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

## 2. Area 2

a. All of the following parishes are open:

i. Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Jackson, Lincoln, Natchitoches, Red River, Sabine, Union, Webster, Winn.

ii. Except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, EXCEPT still hunting only for deer and EXCEPT National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open:

i. Allen—north of US 190 from parish line westward to Kinder, east of US 165 from Kinder northward to LA 10 at Oakdale, north of LA 10 from Oakdale westward to the parish line.

ii. Avoyelles—that portion west of I-49.

iii. Catahoula—west of Boeuf River to Ouachita River, west of Ouachita River from its confluence with Boeuf River to LA 8, north and west of LA 8 southwesterly to Parish line.

iv. Evangeline—all except the following portions: east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte, and north of US 167 east of Ville Platte.

v. Grant—all except that portion south of LA 8 and east of US 165.

vi. Jefferson Davis—north of US 190.

vii. LaSalle—north of a line beginning where Little River enters Catahoula Lake, following the center of the lake eastward to Old River then to US 84, west of US 84 northward to LA 8, north of LA 8 eastward to Parish line.

viii. Morehouse—west of US 165 (from Arkansas state line) to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to Bastrop, west of LA 139 to junction of LA 593, west and south of LA 593 to Collinston, west of LA 138 to junction of LA 134 and north of LA 134 to Ouachita Parish line at Wham Brake.

ix. Ouachita—all except south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse Parish line at Wham Brake.

x. Rapides—all except north of Red River and east of US 165, south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill, and north of LA 113

from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and US 167 to junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line.

xi. Vernon—north of LA 10 from the parish line westward to LA 113, south of LA 113 eastward to parish line. Also the portion north of LA 465 west of LA 117 from Kurthwood to Leesville and north of LA 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes:

i. Claiborne and Webster—Caney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations).

ii. Ouachita—east of Ouachita River.

iii. Rapides—west of US 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of Parish Line westward to US 165, east of US 165 northward to US 167 at Alexandria. North of LA 465 from Vernon Parish line to LA 121, west of LA 121 to I-49, west of I-49 to LA 8, south and east of LA 8 to LA 118 (Mora Road), south and west of LA 118 to Natchitoches Parish line.

iv. Vernon—east of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to LA 465, east and north of LA 465 to Rapides Parish line.

### 3. Area 3

a. All of Acadia, Cameron and Vermilion Parishes are open.

b. Portions of the following parishes are also open:

i. Allen—south of US 190 and west of LA 113.

ii. Beauregard—west of LA 113 and east of LA 27 from the parish line northward to DeRidder and north of US 190 westward from DeRidder to Texas state line.

iii. Calcasieu—south of US 90 from Sulphur to Texas state line. Also east of LA 27 from Sulphur northward to the parish line.

iv. Iberia—west of US 90 and north of LA 14.

v. Jefferson Davis—all except north of US 190.

vi. Lafayette—west of I-49 and US 90.

vii. Rapides—south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill and north of LA 113 from Union Hill to Vernon Parish line.

viii. St. Landry—west of US 167.

ix. Vernon—west and north of LA 113, south of LA 465, east of LA 117 from Kurthwood to Leesville, and south of LA 8 from Leesville to Texas state line.

### 4. Area 4

a. All of Richland parish is open.

b. Portions of the following parishes are open:

i. East Carroll—west of mainline Mississippi River Levee and north and west of LA 877 from West Carroll Parish line to LA 580, north of LA 580 to US 65, east of US 65 to Madison Parish line.

ii. Morehouse—east of US 165 (from Arkansas state line) to Bonita, south and east of LA 140 to junction of LA 830-4 (Cooper Lake Road), east of LA 830-4 to Bastrop, east of LA 139 at Bastrop to junction of LA 593, east and north of LA 593 to Collinston, east of LA 138 to junction of

LA 134 and south of LA 134 to Ouachita line at Wham Brake.

iii. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Bake.

### 5. Area 5

a. All of West Carroll Parish is open.

### 6. Area 6

a. All of the following parishes are open: Ascension, Assumption, Iberville, Jefferson, Lafourche, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John, St. Martin, Terrebonne, West Baton Rouge.

b. Portions of the following parishes are also open:

i. Avoyelles—all except that portion west of I-49.

ii. Evangeline—that portion east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte and north of US 167 east of Ville Platte.

iii. Iberia—east of US 90.

iv. Lafayette—east of I-49 and US 90.

v. Livingston—south of I-12.

vi. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

vii. St. Landry—east of US 167.

viii. St. Mary—north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

ix. St. Tammany—that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

x. Tangipahoa—south of I-12.

xi. West Feliciana—west of Mississippi River, known as Raccourci and Turnbull Islands.

c. Still hunting only in all or portions of the following parishes:

i. Avoyelles—north of LA 1 from Simmesport westward to LA 115 at Marksville, east of LA 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to LA 1 at Simmesport.

ii. Plaquemines—east of the Mississippi River.

iii. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line.

iv. St. Bernard—all of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre.

v. St. John—south of Pass Manchac from Lake Pontchartrain to US 51, east of US 51 from Pass Manchac to LA 638 (Frenier Beach Road). North of LA 638 from US 51 to Lake Pontchartrain, west of Lake Pontchartrain from LA 638 to Pass Manchac.

vi. St. Landry—those lands surrounding Thistlethwaite WMA bounded north and east by LA 359, west by LA 10, and south by LA 103.

vii. High Water Benchmark Closure. Deer hunting in those portions of Iberia, Iberville, St. Martin, and St. Mary parishes south of I-10, west of the East Guide Levee, east of the West Guide Levee, and north of US 90 will be closed when the river stage of the Atchafalaya River reaches 18 feet at Butte LaRose.

7. Area 7

a. Portions of the following parishes are open:

i. Iberia—south of LA 14 and west of US 90.

ii. St. Mary—all except that portion north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

8. Area 8

a. Portions of the following parishes are open:

i. Allen—that portion east of LA 113 from the parish line to US 190, north of US 190 eastward to Kinder, west of US 165 northward to LA 10 at Oakdale and south of LA 10 from Oakdale westward to parish line.

ii. Beauregard—that portion east of LA 113. Also that portion west of LA 27 from parish line northward to DeRidder, south of US 190 from DeRidder to Texas state line.

iii. Calcasieu—that portion east of LA 27 from the parish line southward to Sulphur and north of US 90 from Sulphur to the Texas state line.

iv. Vernon - That portion west of LA 113 from the parish line northward to Pitkin and south of LA 10 from Pitkin southward to the parish line.

G. WMA Regulations

1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. WMA seasons may be altered or closed anytime by the LDWF Secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 4:00 a.m. unless otherwise specified. Hunters must check out and exit the WMA no later than two hours after sunset, or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to the regular season dates and hunting regulations applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP or LADT.

Interested parties should contact the nearest LDWF region office for additional information.

f. Dumping garbage or trash on WMAs is prohibited. Garbage and trash may be properly disposed of in designated locations if provided.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Damage to or removal of trees, shrubs, hard mast (including but not limited acorn and pecans), wild plants, non-game wildlife (including reptiles and amphibians) or any species of butterflies, skippers or moths is prohibited without a permit from the LDWF. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to 5 gallons per person per day.

i. Burning of marshes is prohibited. Hunting actively burning marsh prohibited.

j. Nature trails. Trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

k. Deer seasons are for legal buck deer unless otherwise specified.

l. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

m. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and State Seed Grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

n. Free ranging livestock prohibited.

2. Permits

a. A WMA Hunting Permit is required for persons ages 18 through 59 to hunt on WMAs.

b. Self-Clearing Permits. A Self-Clearing Permit is required for all activities (hunting, fishing, hiking, birdwatching, sightseeing, etc.) on WMAs unless otherwise specified. The Self-Clearing Permit will consist of three portions: check in, check out and a Vehicle Tag. On WMAs where Self-Clearing Permits are required, all persons must obtain a WMA Self-Clearing Permit from an Information Station. The CHECK IN portion MUST be completed and put in a permit box before each day's activity on the day of the activity (except if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA, users need only to check in once during any 72 hour period). Users may check-in one day in advance of use. The check out portion must be carried by each person while on the WMA and must be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA. Each person must leave the vehicle tag portion of his permit on the dashboard of the vehicle used to enter into the WMA in such a way that it can be easily read from outside of the vehicle. This must be done only when the vehicle is parked and left unattended on the WMA. If an ATV, boat or other type vehicle was used to enter the WMA, then the vehicle tag must be attached to that vehicle in such a manner that it can be readily seen and read. No permit is required of fishers

and boaters who do not travel on a WMA road and/or launch on the WMA as long as they do not get out of the boat and onto the WMA. When mandatory deer checks are specified on WMAs, hunters must check deer at a check station. (Self-clearing permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

c. Persons using WMAs or other LDWF administered lands for any purpose must possess one of the following: a valid Wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement. Also a Self-Clearing WMA permit, detailed above, may be required (available at most entrances to each WMA). Check individual WMA listings for exceptions.

### 3. Special Seasons

a. Youth Deer Hunt. Youths 17 or younger only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. Except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Contact the appropriate region office for maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

NOTE: Some hunts may be by pre-application lottery.

b. Youth Squirrel Hunt (on selected WMAs only). Only youths 17 or younger may hunt. Squirrel, rabbit, raccoon and opossum may be taken. Hogs may not be taken. No dogs allowed. All other seasons will remain open to other hunters. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Youths must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. Except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Self-clearing permits are required. Consult the regulations pamphlet for WMAs offering youth squirrel hunts.

c. Youth Mourning Dove Hunt. A youth mourning dove hunt will be conducted on specific WMAs and will follow the same regulations provided for youth deer hunts on the first or second weekend of the mourning dove season (Saturday and/or Sunday only). Consult the regulations pamphlet for WMAs offering youth mourning dove hunts.

d. Physically Challenged Season. An either-sex deer season will be held for hunters possessing a Physically

Challenged Hunter Permit on WMAs during the dates specified under the individual WMA. Participants must possess a Physically Challenged Hunter Permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering Physically Challenged Seasons. Pointe-aux-Chenes will have an experimental Lottery Physically Challenged waterfowl hunt. Contact New Iberia Office, Coastal and Nongame Resources Division for details.

e. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at self-clearing station. Contact Region Offices for more details. Consult separate turkey hunting regulations pamphlet for more details.

f. Waterfowl Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadline. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

g. Mourning Dove Lottery Hunts. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

h. Trapping. Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. Hunter orange required when a deer gun season is in progress.

i. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs. Nighttime experimental—all nighttime raccoon hunting where allowed is with dogs only. There is no bag limit. Self-clearing permit required.

j. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except as otherwise specified under individual WMA listings.

k. Additional LDWF Lands. The LDWF manages additional lands that are included in the WMA system and available for public recreation. Small tracts are located in Vernon, Evangeline, St. Helena and other parishes. These small tracts have been acquired from the Farmers Home Administration or other sources for conservation purposes. Contact the appropriate LDWF Region Office for specific information and any additional season dates.

### 4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms and crossbows cocked in the ready position are not allowed in or on vehicles, boats under power, motorcycles, ATVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas and except as may be permitted for authorized trappers.

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or as permitted for bowfishing. Active and retired law enforcement officers in compliance with POST requirements, Federal Law Enforcement Officers and holders of Louisiana concealed

handgun permits or permit holders from a reciprocal state who are in compliance with all other state and federal firearms regulations may possess firearms on WMAs provided these firearms are not used for any hunting purpose.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists EXCEPT as specified under WMA listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA EXCEPT during modern firearm deer season and during special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs (consult regulations pamphlet for specific WMA regulations).

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV trails and their rights-of-way is prohibited during the modern firearm and muzzleloader deer season.

#### 5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drivers and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On WMAs the daily limit shall be one antlered deer and one antlerless deer (when legal) per day. Three antlered and three antlerless per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included).

d. Deer may not be skinned nor have any external body parts removed including but not limited to feet, legs, tail, head or ears before being checked out.

e. Deer hunting on WMAs is restricted to still hunting only.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. Natural vegetation (including any material used as corner posts) is defined as natural branches that are 2 inches or less in diameter. All decoys must be removed from the WMA daily. Permanent tree stands are any stands that use nails, screws, spikes, etc., to attach to trees and are strictly prohibited. Portable deer stands (those that are designed to be routinely carried by one person) may not be left on WMAs unless the stands are removed from trees and left in a non-hunting position (a non-hunting position is one in which a hunter could not hunt from the stand in its present

position). Also, all stands left must be legibly tagged with the user's name, address, phone number and Big Game Hunting License number (or Lifetime License Number). No stand may be left on any WMA prior to the day before deer season opens on that WMA and all stands must be removed from the WMA within one day after the close of deer hunting on that WMA. Free standing blinds must be disassembled when not in use. Stands left will not reserve hunting sites for the owner or user. All portable stands, blinds, tripods, etc. found unattended in a hunting position or untagged will be confiscated and disposed of by the LDWF. LDWF not responsible for unattended stands left on an area.

g. Physically Challenged Wheelchair Confined Deer and Waterfowl Hunting Areas: Special deer and waterfowl hunting areas, blinds and stands identified with LDWF logos, have been established for PCHP wheelchair confined hunters on WMAs. Hunters must obtain PCHP permits and are required to make reservations to use blinds and stands. PCHP wheelchair hunting areas are available on Alexander State Forest, Big Colewa Bayou, Buckhorn, Clear Creek, Elbow Slough, Floy McElroy, Jackson-Bienville, Ouachita, and Sherburne WMAs. Check WMA hunting schedules or call the LDWF Offices in Pineville, Lake Charles, Opelousas, Minden, Monroe or Hammond for information.

h. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are prohibited.

k. Unattended decoys will be confiscated and forfeited to the LDWF and disposed of by the LDWF. This action is necessary to prevent preemption of hunting space.

l. Spot lighting (shining) from vehicles is prohibited on all WMAs.

m. Horses and mules may be ridden on WMAs except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails depicted on WMA map, self-clearing permit is required. Organized trail rides prohibited except allowed by permit only on Camp Beauregard. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified. Horse-drawn conveyances are prohibited.

n. All hunters (including archers and small game hunters) except waterfowl hunters and mourning dove hunters on WMAs must display 400 square inches of "hunter orange" and wear a "hunter orange" cap during open gun season for deer. Quail and woodcock hunters and hunters participating in special dog seasons for rabbit, squirrel and feral hogs are required to wear a minimum of a "hunter orange" cap. All other hunters and archers (while on the ground) except waterfowl hunters also must wear a minimum of a "hunter orange" cap during special dog seasons for rabbit and squirrel and feral hogs. Also all persons afield during hunting seasons are encouraged to display "hunter orange". Hunters participating in special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs must

display 400 square inches of hunter orange and wear a "Hunter Orange" cap.

o. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches of "hunter orange" above or around their blinds which is visible from 360 degrees.

p. Archery season for deer. The archery season on WMAs is the same as outside and is open for either-sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or physically challenged hunts are in progress. Consult regulations pamphlet for specific seasons.

q. Either-sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Primitive Firearms season for deer. Either-sex unless otherwise specified. See WMA deer schedule. Except youth 17 or younger may use shotgun with slugs during primitive firearms season on the WMA.

#### 6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed sixteen (16) consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16 day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to LDWF-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA and Pass-a-Loutre, houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring is limited to a period not to exceed 16 consecutive days. Permits are required for the mooring of houseboats on Pass-a-Loutre and Atchafalaya Delta WMAs. Permits must be obtained from the New Iberia office.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by state and federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the health unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area unless otherwise specified.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

h. Swimming is prohibited within 100 yards of boat launching ramps.

#### 7. Restricted Areas

a. For your safety, all oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or unauthorized hunting in restricted areas, refuges, or limited use areas unless otherwise specified.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting, hog hunting and bird dog training when allowed; see individual WMA season listings for WMAs that allow dogs. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons. A leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

#### 9. Vehicles

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight-750 pounds, length-85", and width-48". ATV tires are restricted to those no larger than 25 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 7 psi. as indicated on the tire by the manufacturer. Use of all other ATVs or ATV tires are prohibited on a WMA.

b. Utility Type Vehicle (UTV, also utility terrain vehicle) is defined as any recreational motor vehicle other than an ATV, not legal for highway use, designed for and capable of travel over designated unpaved roads, traveling on four (4) or more low-pressure tires, with factory specifications not to exceed the following: weight-1900 pounds, length-128" and width-68". UTV tires are restricted to those no larger than 26 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 12 psi. UTV's are commonly referred to as side by sides and may include golf carts.

c. Vehicles having wheels with a wheel-tire combination having a radius of 17 inches or more from the center of the hub (measured horizontal to ground) are prohibited.

d. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within WMAs due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

e. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

f. Airboats, aircraft, personal water craft, "mud crawling vessels" (commonly referred to as crawfish combines which use paddle wheels for locomotion) and hover craft are prohibited on all WMAs and Refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA. Except Type A personal watercraft, model year 2003 and beyond, which are 8 or more feet in length, may be operated in the areas of Pearl River WMA, south of US 90 from April 1 until the Monday after Labor Day weekend, from sunrise to sunset only. No person shall operate such watercraft at a speed greater than "slow/no wake" within 100 feet of an anchored or moored vessel, shoreline, dock, pier, persons engaged in angling or any other manually powered vessel.

g. Driving or parking vehicles on food or cover plots and strips is prohibited.

h. Blocking the entrance to roads and trails is prohibited.

i. Licensed motorized vehicles (LMVs) legal for highway use, including motorcycles, are restricted entirely to designated roads as indicated on WMA maps. UTVs are restricted to marked UTV trails only. ATVs are restricted to marked ATV trails only, EXCEPT when WMA roads are closed to LMVs. ATVs may then use those roads when allowed. WMA maps available at all region offices. This restriction does not apply to bicycles.

NOTE: All ATV and UTV trails are marked with signs and/or paint, but not all ATV and UTV trails appear on WMA maps.

j. Use of special ATV trails for Physically Challenged persons is restricted to ATV Physically Challenged permittees. Physically Challenged ATV permittees are restricted to Physically Challenged ATV trails or other ATV trails only as indicated on WMA maps or as marked by sign and/or paint. Persons 60 years of age and older, with proof of age, are also allowed to use special Physically Challenged trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Physically Challenged persons under the age of 60 must apply for and obtain a Physically Challenged Hunter Program Permit from the LDWF.

k. Entrances to ATV trails will be marked with peach colored paint. Entrances to Physically Challenged-only ATV trails will be marked with blue colored paint. Entrances to ATV trails that are open all year long will be marked with purple paint. The end of all ATV trails will be marked by red paint. WMA maps serve only as a general guide to the route of most ATV trails, therefore all signage and paint marking as previously described will be used to determine compliance. Deviation from this will constitute a violation of WMA rules and regulations.

l. Roads and trails may be closed due to poor condition, construction or wet weather.

m. ATVs, and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 4:00 AM, except raccoon hunters may use ATVs during nighttime raccoon take seasons only. ATVs are prohibited from March 1 through August 31 except squirrel hunters are allowed to use ATV trails during the spring squirrel season on the WMA and except certain trails may be open during this time period to provide access for fishing or other purposes and some ATV trails will be open all year long on certain WMAs.

n. Caution: Many LDWF-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads.

o. Hunters are allowed to retrieve their own downed deer and hogs with the aid of an ATV except on Thistlethwaite and Sherburne WMAs under the following conditions:

i. No firearms or archery equipment is in possession of the retrieval party or on the ATV.

ii. The retrieval party may consist of no more than one ATV and one helper.

iii. ATVs may not be used to locate or search for wounded game or for any other purpose than retrieval of deer and hogs once they have been legally harvested and located.

iv. UTV's may not be used to retrieve downed deer or hogs.

#### 10. Commercial Activities

a. Hunting Guides/Outfitters. No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services rendered to any other person or persons hunting on any WMA, regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

b. Except for licensed activities otherwise allowed by law, commercial activities are prohibited without a permit issued by the Secretary of the LDWF.

c. Commercial fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Gill nets or trammel nets and the take or possession of grass carp are prohibited on Spring Bayou WMA. Drag seines (except minnow and bait seines) are prohibited EXCEPT experimental bait seines allowed on Dewey Wills WMA north of LA 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

11. WMAs Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, mourning dove, woodcock, snipe, rail and gallinule). Same as outside except closed during modern firearm either-sex deer seasons on certain WMAs (See WMA schedule) and except non-toxic shot must be used for rail, snipe, and gallinule. Consult regulations pamphlet. Unless otherwise specified under a specific WMA hunting schedule, the use of dogs for rabbit and squirrel hunting is prohibited. Spring squirrel season with or without dogs: 1st Saturday of May for 9 days. Consult regulations pamphlet for specific WMAs.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet. Hunting after 2 p.m. prohibited on all WMAs EXCEPT for Atchafalaya Delta, Biloxi, Lake Boeuf, Pass-a-Loutre, Pointe-aux-Chenes, and Salvador/Timken WMAs. Consult specific WMA regulations for shooting hours on these WMAs.

14. Archery. Consult regulations pamphlet.

15. Hogs. Consult regulations pamphlet for specific WMA regulations. Feral hogs may be taken during any legal hunting season, except during the spring squirrel season, on designated WMAs by properly licensed hunters using only guns or bow and arrow legal for specified seasons in progress. Hogs may not be taken with the aid of dogs, except feral hogs may be taken with the aid of dogs on Attakapas, Bodcau, Beouf, Dewey Wills, Jackson-Bienville, Pass-a-Loutre, Pearl River, Red River, Sabine, and Three Rivers WMAs (consult Bodcau, Dewey Wills, Jackson-Bienville, Pass-a-Loutre, Pearl River, Sabine, Red River and Three Rivers WMAs regulations) by permit from either the Minden, Pineville, Hammond or Opelousas Offices and all hogs must be killed immediately and may not be transported live under any conditions, except as allowed by permit, and hunters may use centerfire pistols in addition to using guns allowed for season in progress. Additionally, feral hogs may be taken on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs from February 16 through March 31 with shotguns loaded with buckshot or slugs.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet. During hunting seasons specified on WMAs, except the turkey and spring squirrel seasons, take of outlaw quadrupeds and birds, with or without the use of electronic calls, is allowed by properly licensed hunters and only with guns or bows and arrows legal for season in progress on WMA. However, crows, blackbirds, grackles and cowbirds may not be taken before September 1 or after January 1.

17. WMAs Hunting Schedule and Regulations:

a. Acadiana Conservation Corridor.

b. Alexander State Forest. From December through February all hunters must check daily with the Office of Forestry for scheduled burning activity. No hunting or other activity will be permitted in burn units the day of the burning. Call 318-487-5172 or 318-487-5058 for information on burning schedules. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires EXCEPT in recreation areas.

c. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than

employees of the LDWF at any time. ATVs, ATCs and motorcycles prohibited EXCEPT as permitted for authorized WMA trappers. Mudboats or air-cooled propulsion engines greater than 36 horsepower are prohibited on the WMA. Limited Access Area – no internal combustion engines allowed from September through January. See WMA map for specific locations.

d. Attakapas.

e. Bayou Macon. All night activities prohibited except as otherwise provided.

f. Bayou Pierre

g. Bens Creek

h. Big Colewa Bayou. All nighttime activities prohibited.

i. Big Lake.

j. Biloxi.

k. Bodcau.

l. Boeuf.

m. Buckhorn.

n. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of Self-Clearing Permit required once per year. All game harvested must be reported on self-clearing checkout permit. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. No hunting in restricted areas.

o. Clear Creek (formerly Boise-Vernon).

p. Dewey W. Wills. Crawfish: 100 pounds per person per day.

q. Elbow Slough. Steel shot only for all hunting. All motorized vehicles prohibited.

r. Elm Hall. No ATVs allowed.

s. Floy Ward McElroy.

t. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of self-clearing permit required once per year. New special regulations apply to ATV users.

u. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Region Office. No hunting in restricted area.

v. Jackson-Bienville.

w. Joyce. Swamp Walk: Adhere to all WMA rules and regulations. No loaded firearms or hunting allowed within 100 yards of walkways. Check hunting schedule and use walkway at your own risk.

x. Lake Boeuf. Hunting allowed until 12:00 noon on all game. All nighttime activities prohibited.

y. Lake Ramsay. Foot traffic only - all vehicles restricted to Parish Roads.

z. Little River.

aa. Loggy Bayou.

bb. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed.

cc. Maurepas Swamp. No loaded firearms or hunting allowed within 100 yards of Nature Trail.

dd. Ouachita. Waterfowl Refuge: North of LA 15 closed to all hunting, fishing and trapping and ATV use during duck season including early teal season. Crawfish: 100 pounds per person per day limit. Night crawfishing

prohibited. No traps or nets left overnight. Commercial Fishing: Closed. All nighttime activities prohibited except as otherwise provided.

ee. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the LDWF Pass-a-Loutre WMA map. ATVs, ATCs and motorcycles prohibited on this area. Oyster harvesting is prohibited. Mudboats or air-cooled propulsion engines greater than 36 horsepower are prohibited on the WMA. Limited Access Area – no internal combustion engines allowed from September through January. See WMA map for specific locations.

ff. Pearl River. All roads closed 8 p.m. to 4:30 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting except waterfowl will be closed when the river stage at Pearl River reaches 16.5 feet. No hunting in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open Friday, Saturday and Sunday with a fee. Except Type A personal water craft, model year 2003 and beyond, which are 8 or more feet in length may be operated in the areas of Pearl River WMA, south of US 90 from April 1 until the Monday after Labor Day weekend, from sunrise to sunset only. No person shall operate such water craft at a speed greater than "slow/no wake" within 100 feet of an anchored or moored vessel, shoreline, dock, pier, persons engaged in angling or any other manually powered vessel.

gg. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of Self-Clearing Permit required once per year. Special federal regulations apply to ATV users.

hh. Pointe-aux-Chenes. Hunting until 12 noon on all game, except for mourning dove hunting and youth lottery deer hunt as specified in regulation pamphlet. Point Farm: Gate will be open all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. All boats powered by engines having horsepower ratings above 25 h.p. are not allowed in the Grand Bayou, Montegut and Pointe-aux-Chenes water management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand

Bayou, Humble Canal, Little Bayou Blue and Grand Bayou Blue unless authorized by the LDWF. All other motorized vehicles, horses and mules are prohibited unless authorized by the LDWF. Limited Access Area – no internal combustion engines allowed from September through January. See WMA map for specific locations.

ii. Pomme de Terre. Commercial Fishing: permitted Monday through Friday, EXCEPT closed during duck season. Commercial fishing permits available from area supervisor, Opelousas Region Office or Spring Bayou headquarters. Sport Fishing: Same as outside EXCEPT allowed only after 2 p.m. only during waterfowl season. Crawfish: March 15 - July 31, recreational only, 100 lbs. per boat or group daily.

jj. Red River. Recreational crawfishing allowed on Yakey Farms only, March 15 – July 31, 100 pounds per vehicle or group per day. No traps or nets left overnight. No motorized watercraft allowed. Commercial crawfishing is not allowed

kk. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. Internal combustion engines and craft limited to 10 h.p. rating or less in the Greentree Reservoirs.

NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, EXCEPT still hunt only and EXCEPT deer hunting restricted to archery only. All vehicles including ATVs prohibited.

ll. Sabine.

mm. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

nn. Salvador/Timken. Hunting until 12 noon only for all game. All nighttime activities prohibited, including frogging. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) maximum may be taken for bait. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per boat or group. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Boats powered by internal combustion engines having horsepower ratings above 25 h.p. are permitted only in oil company access canals, Louisiana Cypress Canal, the Netherlands Pond including the West Canal, Lakes - "Baie Des Chactas" and "Baie du Cabanage" and the Rathborne Access ditch. Use of mudboats powered by internal combustion engines with four cylinders or less is permitted in interior ditches from first Saturday in September through January and may be further permitted. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. ATVs, ATCs and motorcycles prohibited on this area. Limited Access Area – no internal

combustion engines allowed from September through January. See WMA map for specific locations.

oo. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Baton Rouge Region Office. Horseback Riding: Self-Clearing Permit required. Organized trail rides prohibited. Riding allowed only on designated roads and trails depicted on WMA map. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas. Horse-drawn conveyances are prohibited.

pp. Sherburne. Crawfishing: Recreational crawfishing only on the South Farm Complexes. Crawfish harvest limited to 100 pounds per vehicle or boat per day. No traps or nets left overnight. No motorized watercraft allowed on farm complex. Commercial crawfishing not allowed. Retriever training allowed on selected portions of the WMA. Contact the Region office for specific details. Vehicular traffic prohibited on east Atchafalaya River levee within Sherburne WMA boundaries. Rifle and Pistol Range open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges. Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne WMA will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area.

qq. Sicily Island Hills.

rr. Soda Lake. No motorized vehicles allowed. Bicycles allowed. All trapping and hunting prohibited except archery hunting for deer and falconry.

ss. Spring Bayou. Commercial Fishing: permitted Monday through Friday except slat traps and hoop nets permitted any day and except gill or trammel nets or the take or possession of grass carp are prohibited. Permits available from area supervisor or Opelousas Region Office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside except allowed only after 2 p.m. during waterfowl season. Crawfish: recreational only. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this campsite. Water skiing allowed only in Old River and Grand Lac.

tt. Tangipahoa Parish School Board. No horseback riding during gun season for deer or turkey. ATVs are not allowed.

uu. Thistlethwaite. All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only. No entry into restricted areas.

vv. Three Rivers.

ww. Tunica Hills. All vehicles restricted to Parish roads. Access to restricted areas is unauthorized. Refer to WMA map. Camping limited to tents only.

xx. Union. All nighttime activities prohibited except as otherwise provided.

yy. West Bay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR

27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007), LR 34:1429 (July 2008), LR 35:1264 (July 2009), LR 36:1566 (July 2010).

Robert J. Barham  
Secretary

1007#066

## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Resident Game Hunting Season (LAC 76:XIX.101 and 103)

The Wildlife and Fisheries Commission does hereby promulgate rules and regulations governing the hunting of resident game birds and game quadrupeds.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part XIX. Hunting and WMA Regulations

#### Chapter 1. Resident Game Hunting Season

##### §101. General

A. The Resident Game Hunting Season regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), LR 30:1493 (July 2004), LR 31:1627 (July 2005), LR 32:1253 (July 2006), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1278 (July 2009), LR 36:1580 (July 2010).

##### §103. Resident Game Birds and Animals

A. Shooting Hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	OPENS: 3 <sup>rd</sup> Saturday of November CLOSES: Last Day of February	10	20
Rabbit and Squirrel	OPENS: 1 <sup>st</sup> Saturday of October CLOSES: Last Day of February	8	16
Squirrel*	OPENS: 1 <sup>st</sup> Saturday of May for 23 days	3	6
Deer	See Schedule	1 antlered and 1 antlerless (when legal)	6/season (3 antlered deer & 3 antlerless deer)

\*NOTE: Spring squirrel season is closed on the Kisatchie National Forest, National Wildlife Refuges, U.S. Army Corps of Engineers property. Some State Wildlife Management Areas will be open, check WMA season schedule.



C. Deer Hunting Schedule

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
1	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan.	OPENS: 2 <sup>nd</sup> Sat. of Nov. CLOSES: Fri. after 2 <sup>nd</sup> Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last Sun. of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 <sup>rd</sup> Sat. of Nov. CLOSES: Fri. before 2 <sup>nd</sup> Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 <sup>st</sup> Sat. of Dec. OPENS: Mon. after 1 <sup>st</sup> Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2 <sup>nd</sup> Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 <sup>st</sup> Sat. of Dec. CLOSES: Sun. after 1 <sup>st</sup> Sat. of Jan.
2	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days.	OPENS: Last Sat. of Oct. CLOSES: Tues. before 2 <sup>nd</sup> Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1 <sup>st</sup> Sat. of Dec.	OPENS: Wed. before the 2 <sup>nd</sup> Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1 <sup>st</sup> Sat. of Dec. on odd years and Thurs. during even numbered years CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years
3	OPENS: 3 <sup>rd</sup> Sat. of Sept. CLOSES: Jan. 15	OPENS: 2 <sup>nd</sup> Sat. of Oct. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1 <sup>st</sup> Sat. of Dec.	OPENS: 3 <sup>rd</sup> Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1 <sup>st</sup> Sat. of Dec. CLOSES: After 37 days	
4	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan.	OPENS: 2 <sup>nd</sup> Sat. of Nov. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Nov. OPENS: Mon. after 2 <sup>nd</sup> Sat. of Jan. CLOSES: Mon. after 3 <sup>rd</sup> Sat. of Jan.	OPENS: 3 <sup>rd</sup> Sat. of Nov. CLOSES: Sun. after 2 <sup>nd</sup> Sat. of Jan.	
5	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan.	OPENS: 2 <sup>nd</sup> Sat. of Nov. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Nov. (BUCKS ONLY) OPENS: Day after Christmas Day CLOSES: Jan. 1 <sup>st</sup> (BUCKS ONLY)	OPENS: Day after Thanksgiving Day CLOSES: Sun. after 2 <sup>nd</sup> Sat. of Dec.	
6	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Feb. 15 (1 <sup>st</sup> 15 days are BUCKS ONLY)	OPENS: 2 <sup>nd</sup> Sat. of Nov. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last Sun. of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3 <sup>rd</sup> Sat. of Nov. CLOSES: Fri. before 2 <sup>nd</sup> Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1 <sup>st</sup> Sat. of Dec.	OPENS: 2 <sup>nd</sup> Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1 <sup>st</sup> Sat. of Dec. CLOSES: Next to last Sun. of Jan.
7	OPENS: 1 <sup>st</sup> day of Oct. CLOSES: Last day of Jan.	OPENS: 2 <sup>nd</sup> Sat. of Oct. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Oct. OPENS: 1 <sup>st</sup> Sat. of Nov. CLOSES: Fri. before 2 <sup>nd</sup> Sat. of Nov.	OPENS: 3 <sup>rd</sup> Sat. of Oct. CLOSES: Fri. before 1 <sup>st</sup> Sat. of Nov. OPENS: 2 <sup>nd</sup> Sat. of Nov. CLOSES: Sun. after Thanksgiving Day	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days
8	OPENS: 3 <sup>rd</sup> Sat. of Sept. CLOSES: Jan. 15	OPENS: 2 <sup>nd</sup> Sat. of Oct. CLOSES: Fri. before 3 <sup>rd</sup> Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1 <sup>st</sup> Sat. of Dec.	OPENS: 3 <sup>rd</sup> Sat. of Oct. CLOSES: Sun. after Thanksgiving Day	OPENS: 1 <sup>st</sup> Sat. of Dec. CLOSES: After 37 days.

D. Modern Firearm Schedule (Either Sex Seasons)

Parish	Area	Modern Firearm Either-sex Days
East Carroll	Area 1	Antlerless deer may be harvested during entire deer season on private lands (all segments included), east of mainline Mississippi River Levee and south and east of La. 877 from West Carroll Parish line to La. 580, south of La. 580 to U.S. 65, west of U.S. 65 to Madison Parish line.
East Carroll	Area 4 portion	Opens 3 <sup>rd</sup> Saturday of November for 2 days and opens Friday after Thanksgiving Day for 3 days, west of mainline Mississippi River Levee and north and west of La. 877 from West Carroll Parish line to La. 580, north of La. 580 to U.S. 65, east of U.S. 65 to Madison Parish line.
West Carroll	Area 5	Opens Friday after Thanksgiving Day for 3 days.

E. Farm Raised White-tailed Deer on Supplemented Shooting Preserves: Archery, Firearm, Primitive Firearms: October 1-January 31 (either-sex).

F. Exotics on Supplemented Shooting Preserves: Either Sex, no closed season.

G. Spring Squirrel Hunting

1. Season Dates: Opens 1<sup>st</sup> Saturday of May for 23 days.

2. Closed Areas: Kisatchie National Forest, National Wildlife Refuges, and U.S. Army Corps of Engineers property and all WMAs except as provided in Paragraph 3 below.

3. Wildlife Management Area Schedule: Opens 1<sup>st</sup> Saturday of May for 9 days on all WMAs except Fort Polk, Peason Ridge, Camp Beauregard, Pass-a-Loutre and Salvador. Dogs are allowed during this season for squirrel hunting. Feral hogs may not be taken on Wildlife Management Areas during this season.

4. Limits: Daily bag limit is 3 and possession limit is 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1280 (July 2009), LR 35:2856 (December 2009), LR 36:1580 (July 2010).

Robert J. Barham  
Secretary

1007#067

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Board of Animal Health

#### Trichomoniasis (LAC 7:XXI.339)

In accordance with the Administrative Procedures Act, (R.S. 49:950 et seq.) and with the enabling statutes, R.S. 3:2093, 3:2095, and 3:2097, the Louisiana Board of Animal Health is intending on amending the attached regulations to provide for the testing and reporting of cattle for trichomoniasis, movement and disposition of bulls and cows that test positive, the quarantine of cattle relative to trichomoniasis, and to provide for related matters.

Trichomoniasis is a venereal disease of cattle brought about by *Tritrichomonas foetus*, a protozoal parasite, which may cause early embryonic death of the fetus or late term abortion. Bulls carry the parasite, pass it on to cows during breeding, and the parasite may be transmitted from the cow to her calf during birthing. The parasite is almost impossible to detect in cows and is difficult to detect in bulls. The cost of testing a bull is \$100, but the financial losses caused by trichomoniasis are substantial. Infected herds have a decrease in the number of calves being born, sometimes as much as a 55 percent decrease. The Louisiana cattle industry has approximately 420,000 breeding age cows and 25,600 bulls. Based on this number of cows the calving rate is approximately 85 percent, for a total of 544,000 calves a year. A breeding cow will sell, on average, for approximately \$1,200 and a breeding bull will sell, on average for approximately \$2,000. A calf will sell, on average, for \$500. A cow or bull sold for slaughter will bring, on average, \$500. If Louisiana's cattle become infected statewide with trichomoniasis it is conservatively estimated that 50 percent of the cows and bulls will be infected and that the calving rate will decrease to a 50 percent birthing rate. Based on this estimate the Louisiana cattle industry would lose \$112,000,000 from unborn calves, \$22,400,000 from the sale of infected breeding cows for slaughter rather than as a breeder, and \$19,200,000 from the sale of infected bulls for slaughter, rather than as a breeding bull. The cost for replacing the infected cows and bulls with cows and bulls capable of breeding immediately would be \$38,400,000 for replacement cows and \$25,600,000 for replacement bulls.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXI. Diseases of Animals

#### Chapter 3. Cattle

#### §339. Trichomoniasis Testing and Movement Requirements for Cattle

A. Every bull moved into this state and every bull within this state which is sold, exchanged, leased, rented, sold, or otherwise transferred in ownership or possession (hereafter collectively referred to as "transferred") from one person to another shall be accompanied by a test result showing that the bull is free from Trichomoniasis (hereafter referred to as

"negative test result" or "testing negative") except for the following bulls:

1. Exhibition and rodeo bulls that are temporarily in the state only for the purpose of the event and will be leaving the state immediately after the event;
2. Bulls going direct to slaughter or being sold to go direct to slaughter;
3. Virgin bulls accompanied by a certification of virgin status signed by the owner of the bull, or the owner's representative or an accredited veterinarian and including the bull's individual identification.

4. Bulls being transported through this state in interstate commerce unless offloaded and comingled with female cattle already in this state that are not going direct to slaughter.

B. Every bull required to be accompanied by a negative test result shall be tested no later than 30 days prior to being moved into the state or the date of transfer, except for bulls that are in a trichomoniasis-free certification program or a semen certification program, recognized by the state veterinarian.

C. Every bull moved into this state and every bull within this state which is transferred from one person to another, except for the bulls listed in Subparagraph 1-4 of Subsection A of this Section, shall be identified by one or more of the following means:

1. Brucellosis ear tag;
2. official 840 radio frequency identification device (RFID);
3. official 840 flap or bangle tag;
4. official individual animal breed registry brand;
5. official individual animal breed registry tattoo; or
6. an official state of origin trichomoniasis tag.

D. The requirements for testing a bull for trichomoniasis are as follows.

1. All test samples shall be drawn by an accredited veterinarian.

2. The testing of samples shall be through the use of a test approved by the state veterinarian or by USDA APHIS VS that is performed at an official laboratory or by an accredited veterinarian qualified to test for trichomoniasis.

3. Test results that show that the tested animal has trichomoniasis (hereafter referred to as "positive test results" or "testing positive") shall immediately cause the tested animal to be classified as trichomoniasis infected and subject to the restrictions set out in this Section.

4. An additional test to confirm the presence of trichomoniasis may be requested in the event of an initial positive test result, but the request for the confirmatory test must be made to the state veterinarian within 5 business days of notification of the positive test result.

a. If the confirming test comes back negative then the tested animal is considered negative for trichomoniasis and may be moved as such.

b. If the confirming test comes back positive then the tested animal shall be subject to the restrictions set out in this Section.

5. A bull being tested for trichomoniasis shall be kept separate from female cattle at all times during the entire test period from the taking of samples until receipt of the results of the initial test results. A bull testing negative on the initial test may be comingled with female cattle upon receipt of the test results while a bull testing positive shall be immediately subject to the restriction on trichomoniasis infected bulls set out in this Section.

6. All test results for trichomoniasis, whether negative or positive, shall be reported to the state veterinarian within 24 hours after receipt of the results.

7. When a positive test result is received the treating veterinarian shall consult with the state veterinarian on the first business day after receipt of the test results to determine a plan of action regarding the animal testing positive.

E. Bulls that are required to be tested for trichomoniasis prior to being moved into this state or prior to being transferred from one person to another but which have not been tested shall be kept separate from breedable-type cattle until tested and a negative result is obtained.

F. Bulls, except for virgin bulls, that are not required to be tested for trichomoniasis prior to being moved into this state or prior to being transferred from one person to another shall, at all times, be kept separate from female cattle until tested and a negative result is obtained. However, a bull being moved direct to slaughter or sold to go direct to slaughter may be comingled with breedable-type cattle also being moved direct to slaughter or being sold to go direct to slaughter.

G. Bulls testing positive for trichomoniasis are subject to the following restrictions.

1. No known trichomoniasis infected bull shall be moved into or within this state or transferred within this state from one person to another, unless the bull is going direct to slaughter or being sold to go direct to slaughter.

2. No known trichomoniasis infected bull, whether being moved into or within this state, shall be used for breeding purposes and shall be kept separate from female cattle, from the time the first positive test result is received.

3. A trichomoniasis infected bull shall be moved direct to slaughter, or sold to go direct to slaughter within 30 days from receipt of the positive results of the original test or the results of the confirming test, whichever is later.

4. A trichomoniasis infected bull may be moved only after a VS 1-27 permit is issued by the testing veterinarian or the state veterinarian or his representative. The VS 1-27 permit shall accompany the bull upon movement of the animal.

H. If a trichomoniasis infected bull has been in a herd with female cattle then the infected bull and the other bulls in the herd are subject to the following requirements.

1. The trichomoniasis infected bull shall be immediately separated from the herd and all other bulls in the herd and shall be moved or transferred only as allowed by this Section.

2. If there is any other bull or bulls in the herd then all other such bulls shall be immediately separated from, and kept separate from all female cattle.

3. Each such bull shall be tested for trichomoniasis as soon as possible. Test samples shall not be pooled.

4. A bull testing negative shall be immediately removed from all other bulls that have not been tested or for which the test results have not been received and shall be considered to be a negative bull for all purposes.

5. A bull testing positive shall immediately be classified as a Trichomoniasis infected bull and shall be subject to the restrictions imposed in this Section on such bulls.

6. An additional test to confirm the presence of trichomoniasis may be requested in the event of an initial positive test result, but the request for the confirmatory test must be made to the state veterinarian within 5 business days of notification of the positive test result.

a. If the confirming test comes back negative then the bull shall be considered negative for trichomoniasis.

b. If the confirming test comes back positive then the bull shall be considered to be infected with trichomoniasis and subject to the restrictions imposed in this Section on such bulls.

I. A trichomoniasis infected herd is a herd known to contain or have contained a trichomoniasis infected bull or cow. If a virgin bull or bull that has tested negative for trichomoniasis is comingled with female cattle from a trichomoniasis infected herd then the virgin bull or bull with negative test results shall be tested for and found to be free of trichomoniasis before being moved, placed into another herd, or transferred from one person to another.

J. A cow is not required to be tested for trichomoniasis before being moved into this state or transferred from one person to another but if a cow is tested then the same procedure set out in this Section for testing a bull shall apply to the testing of a cow.

K. A cow testing positive for trichomoniasis shall be subject to the following restrictions:

1. A cow testing positive for trichomoniasis shall not be moved into this state, except to go direct to slaughter or to be sold to go direct to slaughter.

2. A cow within this state that has tested positive for trichomoniasis shall be immediately separated from, and kept separate from all bulls.

a. The cow shall be moved direct to slaughter or sold to go direct to slaughter within 30 days from receipt of the positive result of the original test or the confirming test, whichever is later, unless placed under a quarantine program approved by the state veterinarian.

b. If the cow is quarantined then it may not be moved from quarantine until the quarantine is released in writing by the state veterinarian. The cow may be released from quarantine only if the cow is subsequently tested and found to be free from trichomoniasis or if the cow is to be moved direct to slaughter or to be sold to go direct to slaughter.

3. A trichomoniasis infected cow may be moved only after a VS 1-27 permit is issued by the testing veterinarian or the state veterinarian or his representative. The VS 1-27 permit shall accompany the cow upon movement of the animal.

L. Quarantine Facilities

1. A livestock owner or lessor, livestock dealer, and a public livestock market facility may, with the written

approval of the state veterinarian, establish a quarantine facility to hold bulls being moved into this state or being sold in this state until they can be tested for trichomoniasis.

2. The quarantine facility shall be inspected and approved by the state veterinarian or his representative prior to being placed into use.

3. The fencing or railing of the quarantine facility must be of material that will keep a bull from being able to breed with a cow located in an adjacent pen or pasture and of sufficient strength to keep a bull from escaping the quarantine facility.

4. A bull in a quarantine facility testing positive for trichomoniasis shall be immediately separated from, and kept separate from, all female cattle and shall be subject to the restrictions imposed by this Section on a trichomoniasis infected bull.

M. The state veterinarian may grant a written exception or variance to the provisions of this Section, with such conditions as the state veterinarian may impose, if such action is necessary to provide for unforeseen situations or circumstances. Any such exception or variance shall balance the need to protect cattle from trichomoniasis with the need to allow cattle to move in commerce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, 3:2095, and 3:2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Board of Animal Health, LR 35:1466 (August 2009), amended LR 36:

#### **Family Impact Statement**

It is anticipated that the proposed rule will have no significant effect on the (1) stability of the family, (2) authority and rights of parents regarding the education and supervision of their children, (3) functioning of the family, (4) family earnings and family budget, (5) behavior and personal responsibility of children, or (6) ability of the family or a local government to perform the function as contained in the proposed rule.

#### **Small Business Statement**

It is anticipated that the proposed rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Public Comments**

Interested persons may submit written comments, data, opinions, and arguments, whether for, against, or regarding these proposed regulations. Written submissions are to be directed to Dr. Martha Littlefield DVM, Louisiana State Veterinarian, at the Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on the 27th day of August, 2010. No preamble regarding these proposed regulations is available.

Mike Strain, DVM  
Commissioner

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Trichomoniasis**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed action is not anticipated to have a direct material effect on governmental expenditures.

The proposed action provides for the testing and reporting of cattle for trichomoniasis, particularly bulls being sold in this state; movement and disposition of cattle that test positive for trichomoniasis, the quarantine of cattle with trichomoniasis, and to provide for related matters.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed action is not anticipated to have a direct material effect on governmental revenues.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The estimated cost of the proposed action to an individual who seeks to sell a bull in Louisiana is \$100 payable to a private veterinarian. There were approximately 7,000 bulls sold in this state in 2009. Thus, the estimated costs as a result of the proposed action to cattle producers could be at least \$700,000 in aggregate.

On the other hand, the estimated economic cost of failing to implement these regulations to cattle owners or producers in Louisiana is over \$150,000,000. This amount includes \$112,000,000 that would be lost due to lower calf production, \$22,400,000 lost through the diminished value of infected cows, and \$19,200,000 lost from the diminished value of infected bulls. These amounts do not include the cost for replacement bulls and cows or the cost of vaccination, which is \$10 for the initial vaccination of a cow and \$5 for each yearly booster shot.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is estimated that there will be a significant effect on competition and employment. Louisiana cattle producers will be in a position to compete with cattle producers from other states by keeping cattle in this state free from Trichomoniasis. The control of Trichomoniasis will help maintain the number of cattle in this state, thereby providing continued employment for livestock producers, auction markets, cattle related businesses, and their employees.

Craig Gannuch  
Assistant Commissioner  
1007#097

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Agriculture and Forestry Horticulture Commission**

#### **Landscape Irrigation Contractors Insurance Waiver (LAC 7:XXIX.117 and 119)**

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 3:3801 and 3:3808, the Horticulture Commission, is intending on amending LAC 7:XXIX.117 to allow the waiver of the insurance requirement for licensed landscape

irrigation contractors who only provide consulting or associated services in regard to landscape irrigation systems or work on such systems.

LAC 7:XXIX.119.A is being amended to make a technical correction in the legal citation contained therein. Paragraph (A) was promulgated in 1982 and referred to statutes previously found in Part I, entitled "Agricultural Poisons" of Chapter 12 of Title 3 of the Revised Statutes. In 1983 Part I of Chapter 12 was repealed and the subject matter was transferred to Chapter 20 of Title 3, which is the Louisiana Pesticide Law. This amendment merely provides the correct citation to the applicable statutory law.

#### **Title 7**

### **AGRICULTURE AND ANIMALS**

## **Part XXIX. Horticulture Commission**

### **Chapter 1. Horticulture**

#### **§117. Professional and Occupational Standards and Requirements**

A - H.5. ...

##### **I. Landscape Irrigation Contractor**

1. Before the commission issues a landscape irrigation contractor license the person to be licensed shall first furnish to the commission a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant, as a licensee, for personal injuries and property damages. The insurance policy shall provide for not less than \$25,000 per personal injuries and not less than \$50,000 for property damages, both limits applicable to each separate accident. The certificate of insurance must provide for 30 days' written notice to the commission prior to cancellation. The commission may, however, waive the requirement for the stated insurance coverage for any licensed landscape irrigation contractor who does not physically work on landscape irrigation systems or accept responsibility for work on landscape irrigation systems but only provides consultation or other associated services with respect to landscape irrigation systems or the work performed on such systems.

2. - 5.e. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3801, and R.S. 3:3808.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185, (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 31:1054 (May 2005), LR 32:78 (January 2006), LR 32:1010 (June 2006), LR 33:1854 (September 2007), LR 35:1225 (July 2009), LR 36:

#### **§119. Prohibition**

A. No licensee or permittee of the commission may apply pesticides to any properties which are not owned, rented, or leased by the licensee or permittee or persons engaged in any regulated profession or occupation unless such licensee or permittee, or persons engaged in any regulated profession or occupation is properly licensed or certified by the Department in accordance with the Louisiana Pesticide Law (R.S. 3:3201 et seq.).

B. - F. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3801.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:186 (April 1982),

amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 29:1460 (August 2003), LR 36:

#### **Family Impact Statement**

The proposed Rule will have no impact on family formation, stability, or autonomy. In making this determination the agency considered each of the factors listed in R.S. 49:972(B) and determined that the proposed Rule will have no effect on any of these factors.

#### **Small Business Statement**

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Public Comments**

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed Rule. Written submissions are to be directed to Ansel Rankins, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on August 27, 2010. No preamble regarding these proposed regulations is available.

Mike Strain, DVM  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Landscape Irrigation Contractors Insurance Waiver**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed action is not anticipated to have a direct material effect on governmental expenditures.

The amendment to LAC 7:XXIX.117 allows the waiver of the insurance requirement for licensed landscape irrigation contractors who only provide consulting or associated services in regard to landscape irrigation systems or work on such systems but who do not perform the actual installation or work themselves. The amendment to LAC 7:XXIX.119.A makes a technical correction in the legal citation contained therein to reflect a change in the statutory law since the Paragraph was promulgated.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed action is not anticipated to have a direct material effect on governmental revenues.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed action relieves individuals who do not actually install or work on landscape irrigation system but desire a landscape irrigation contractor's license, such as consultants and suppliers, of the need to have insurance coverage. These individuals will receive the anticipated economic benefits derived from the proposed action. The annual insurance premium for landscape irrigation contractors is approximately \$4,200 per year, but there is no way to anticipate how many individuals might take advantage of the waiver. However, to date approximately 6 individuals have requested this specific rule change, which would equate to approximately \$25,200 of total aggregate insurance premium

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a direct material effect on competition or employment.

Craig Gannuch  
Assistant Commissioner  
1007#098

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Agriculture and Forestry  
Office of Agriculture and Environmental Sciences  
Louisiana Seed Commission**

Labeling of Coated Seeds (LAC 7:XIII.121)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and with the enabling statute, R.S. 3:1433, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, is intending on amending this regulation to provide the requirements for the labeling of coated seed so that purchasers of these seeds can be informed of the percent by weight of seed and non-seed material before making the purchase.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XIII. Seeds**

**Chapter 1. Louisiana Seed Law**

**Subchapter A. Enforcement of the Louisiana Seed Law**

**§121. Labeling of Seed**

A. - A.3.b.ii. ...

4. For coated seed, the product must be identified on the label as "coated seed" and the percent by weight of seed and non-seed material must appear on the front of each package, adjacent to the product name. The listing of the percentages must be in a size type that will permit the ultimate purchaser to read the information easily and without strain.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and 3:1436.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 16:492 (June 1990), LR 36:

**Family Impact Statement**

It is anticipated that the proposed Rule will have no significant effect on the (1) stability of the family, (2) authority and rights of parents regarding the education and supervision of their children, (3) functioning of the family, (4) family earnings and family budget, (5) behavior and personal responsibility of children, or (6) ability of the family or a local government to perform the function as contained in the proposed rule.

**Small Business Statement**

It is anticipated that the proposed rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has

considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

**Public Comments**

Interested persons may submit written comments, data, opinions, and arguments, whether for, against, or regarding these proposed Rules. Written submissions are to be directed to Lester Cannon, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on August 27, 2010. No preamble regarding the proposed rule is available.

Mike Strain, DVM  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Labeling of Coated Seeds**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed action is not anticipated to have a direct material effect on governmental expenditures. The proposed action provide the requirements for the labeling of coated seed so that purchasers of these seeds can be informed of the percent by weight of seed and non-seed material before purchasing the seed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed action is not anticipated to have a direct material effect on governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Three companies are producing seed labels for seeds sold in this state and they, as a group, will be affected by the proposed action. The anticipated cost to this group is a one time charge of \$3,000 to each company to change the stamps used to produce the seed labels. The anticipated aggregate impact of the proposed rules is \$9,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a direct material effect on competition or employment.

Craig Gannuch  
Assistant Commissioner  
1007#099

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Children and Family Services  
Child Welfare Section**

Legal Representation in Child Protection Cases  
(LAC 67:V.5701, 5703, 5705, 5901 and 5903)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Department of Children and Family Services (DCFS), Child Welfare Section, proposes to repeal the LAC 67:V, Subpart 7, Chapter 57, Billing Policies and Fee Review Procedures, and promulgate LAC 67:V, Subpart

7, Chapter 59, relative to the provision of Legal Representation in Child Protection Cases.

These changes are necessitated by full implementation of the new statewide system of legal representation for children and indigent parents in child protection cases consistent with the expedited implementation plan unanimously approved by the Task Force on Legal Representation in Child Protection Cases.

As of July 1, 2010, state funding for legal representation in child protection cases is confined to the new system. The Mental Health Advocacy Service/Child Advocacy Program (MHAS/CAP) will receive state funds to represent children in child protection proceedings in the following jurisdictions: 1<sup>st</sup> JDC, 14<sup>th</sup> JDC, 16<sup>th</sup> JDC, 19<sup>th</sup> JDC, 21<sup>st</sup> JDC, 22<sup>nd</sup> JDC (except Slidell City Court), 25<sup>th</sup> JDC, 38<sup>th</sup> JDC and Orleans Parish Juvenile Court. The Supreme Court will receive state funds for administration by the Louisiana Bar Foundation to Legal Services of North Louisiana, Acadiana Legal Services, Capital Area Legal Services, and Southeast Louisiana Legal Services for representation of children in child protection proceedings in jurisdictions not served by MHAS/CAP. The Louisiana Public Defender Board will receive state funds to provide for representation of indigent parents through local defender offices statewide and will retain all children's cases to which they were formerly appointed. The state funds will be used only to pay for attorneys hired or contracted by MHAS/CAP, LPDB, or the Legal Services Corporations, not for ad hoc attorney representation.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part V. Community Services**

#### **Subpart 7. Payment of Legal Fees in Child Protection Cases**

#### **Chapter 57. Billing Policies and Fee Review Procedures**

#### **§5701. Purpose**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:112 (January 2006), repealed by Department of Children and Family Services, Child Welfare Section LR 36:

#### **§5703. Billing policies**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:112 (January 2006), repealed by Department of Children and Family Services, Child Welfare Section LR 36:

#### **§5705. Fee review procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:112 (January 2006), repealed by Department of Children and Family Services, Child Welfare Section LR 36:

#### **Chapter 59. Legal Representation of Children and Indigent Parents Pursuant to La. R.S. 46:460.21**

#### **§5901. Implementation of New Statewide System of Legal Representation of Children and Indigent Parents**

A. Full implementation of the new statewide system of legal representation of children and indigent parents in child protection cases is effective July 1, 2010.

B. Pursuant to implementation of the new statewide system consistent with the expedited implementation plan unanimously approved by the Task Force on Legal Representation in Child Protection Cases, the department will not pay for *ad hoc* legal representation of children or indigent parents for services provided after June 30, 2010 or services in new cases during the January 1 – June 30, 2010 transition period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Welfare Section LR 36:

#### **§5903. DSS Final Payment to *ad hoc* Attorneys Appointed Prior to January 1, 2010**

A. Subject to available funds pursuant to R.S. 46:460.21, the department will pay properly documented and authorized requests for payment of services of *ad hoc* attorneys who were appointed to represent children and/or indigent parents prior to January 1, 2010 and delivered services through June 30, 2010. The department will not pay for legal representation services delivered to children or indigent parents for *ad hoc* appointment made in new cases on or after January 1, 2010. Attorneys shall follow the former billing procedures when submitting requests for payment. To be considered for payment, attorneys must submit properly documented and authorized requests for payment to the department by July 16, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Welfare Section LR 36:

#### **Family Impact Statement**

It is anticipated that the proposed Rule will have no significant effect on the: (1) stability of the family, (2) authority and rights of parents regarding the education and supervision of their children, (3) functioning of the family, (4) family earnings and family budget, (5) behavior and personal responsibility of children, or (6) ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses.

#### **Public Comments**

Interested persons may submit written comments by the close of business Friday, August 27, 2010 to Mr. Joseph Bruno, Administrator, Child Welfare Section, P. O. Box

3318, Baton Rouge, LA 70821. He is responsible for responding to inquiries regarding this proposed Rule.

### Public Hearing

A public hearing on the proposed Rule will be held on Friday, August 27, 2010 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Second Floor, Room 2-316, Baton Rouge, LA, beginning at 9:00a.m. All interested persons will be afforded an opportunity to submit data, views, arguments, orally and in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least 7 working days in advance of the hearing. For assistance, call 225-342-4120 (Voice and TDD).

Ruth Johnson  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Legal Representation in Child Protection Cases

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to repeal the Louisiana Administrative Code (LAC) Title 67:V, Subpart 7, Chapter 57, Billing Policies and Fee Review Procedures, and promulgate LAC Title 67:V, Subpart 7, Chapter 59, relative to the provision of legal representation services in child protection cases.

In accordance with La. R.S. 46:460.21, the legislatively convened Task Force on Legal Representation in Child Protection Cases (TF) was charged with planning an orderly transition to a more efficient and effective statewide system of legal representation for children and indigent parents in child protection cases.

In 2007, the TF developed an incremental five-year implementation plan to roll out a new system reforming the legal representation provided to children and indigent parents in child protection cases. The complete transformation was expected to occur over a 5 year period ending in the year 2012.

The new system of legal representation created a specialized Child Advocacy Program (CAP) within the existing statewide Mental Health Advocacy Service (MHAS), to provide legal representation to children in child protection cases, and created the Indigent Parents' Program within the Louisiana Public Defender Board (LPDB) to provide legal representation to indigent parents in child protection cases.

On September 1, 2009 (year two of the roll out), the DCFS proposed that the TF consider expediting the time frame for the complete transfer of legal representation responsibilities with a final full implementation date to occur no later than June 30, 2010.

A transition period began January 1 through June 30, 2010 with full implementation effective July 1, 2010.

The only cost associated with this rule is the cost of publishing rulemaking, which is estimated to be \$588.00 (\$168.00 per rulemaking pages x 3.5 pages = \$588.00). This one-time cost is routinely included in the agency's budget.

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governments as a result of this rule change.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated Costs and/or Economic Benefits to Directly Affected Persons or Non-Governmental Groups

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no Estimated Impact on Competition and Employment

Joseph Bruno  
Child Welfare Administrator  
1007#106

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Children and Family Services Economic Stability and Self-Sufficiency Section

Family Violence Prevention and Intervention Program  
(LAC 67:III.5509)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Children and Family Services, proposes to amend the LAC 67:III.5509, Domestic Violence Services.

Pursuant to Act 10 of the Regular Session of the Louisiana Legislature, the agency proposes to amend Section 5509 Domestic Violence Services to include males ages 18 and over to the audience targeted to receive education and training addressing the problem of statutory rape. Additionally, the name is being changed to Family Violence Prevention and Intervention Program to more accurately reflect the services being provided.

This Rule was made effective by an Emergency Rule dated May 21, 2010.

### Title 67

### SOCIAL SERVICES

### Part III. Family Support

### Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

### Chapter 55. TANF Initiatives

### §5509. Family Violence Prevention and Intervention Program

A. The Department of Children and Family Services shall enter into Memoranda of Understanding or contracts to provide services for victims of domestic violence and their children, including rural outreach and community collaboration training for the purpose of educating attendees about domestic violence and the available services provided by the Department of Children and Family Services including but not limited to TANF, Supplemental Nutrition Assistance Program, Child Care, and Employment Training. Additionally, these services will include education and training addressing the problem of statutory rape. These programs are designed to not only reach the public, but also law enforcement officials, educators, relevant counseling services, and males 18 and older.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session, Act 18, 2007 Reg. Session, Act 10, 2009 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 33:2205 (October 2007), LR 34:693 (April 2008), LR 34:2415 (November 2008), Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:

### Family Impact Statement

1. What effect will this Rule have on the stability of the family? This amendment will have no further impact on stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule should have no impact on family functioning.

4. What effect will this have on family earnings and family budget? The Rule will have no effect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? The Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

### Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

### Public Comments

All interested persons may submit written comments through, August 25, 2010, to Sammy Guillory, Deputy Assistant Secretary, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804-9065.

### Public Hearing

A public hearing on the proposed Rule will be held on August 25, 2010 at the Department of Social Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Ruth Johnson  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Family Violence Prevention and Intervention Program

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend Section 5509 to clarify males who are ages 18 and over are included in the audience targeted to receive education and training addressing the problem of

statutory rape. Additionally, the name is being changed to Family Violence Prevention and Intervention Program to more accurately reflect the services being provided.

This Rule only clarifies language with no changes in services being offered; therefore, the only cost associated with this rule is the cost of publishing rulemaking, which is estimated to be \$600 for FY 10/11. This is a one-time cost that is routinely included in the agency's annual budget.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will have no effect on the revenue of state or local governmental entities.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no economic benefit to males age 18 and over. Males age 18 and over will receive only an educational benefit.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact on competition and employment.

Sammy Guillory  
Deputy Assistant Secretary  
1007#105

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Children and Family Services Economic Stability and Self-Sufficiency Section and Child Welfare Section

Daycare Services—Residential Licensing  
(LAC 67:III.7303,7359; V.6706 and 6955)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Child and Family Services (DCFS), intends to amend rules in the *Louisiana Administrative Code* (LAC) Title 67, Part III, Subpart 21, Chapter 73, Child Day Care Licensing, and LAC Title 67, Part V, Subpart 8, Chapters 67-69 Residential Licensing pursuant to the general rule-making authority of the Department under La. R.S. 46:51 and the specific rule-making authority over child care facilities and child placing agencies granted by the Child Care Facility and Child-Placing Agency Licensing Act, La. R.S. 46:1401-1426.

State licensing regulations for child care facilities and child placing agencies provide for a disqualification period for licensees who have had a prior license revoked for failure to comply with state laws and regulations governing facilities providing out-of-home care for children.

The amendments to Title 67, Part III, Subpart 21, Chapter 73, Child Day Care Licensing, and LAC Title 67, Part V, Subpart 8, Chapters 67-69 propose to clarify the definition of the term "Affiliate."

### Title 67

### SOCIAL SERVICES

#### Part III. Family Support

#### Subpart 21. Child Care Licensing

#### Chapter 73. Day Care Centers

#### Subchapter A. Licensing Class "A" Regulations for Child Care Centers

#### §7303. Procedures

A. - G.1. ...

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any pending application by the same provider shall be treated as an application for a new facility for purposes of this section and shall be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. - c. ...

d. With respect to an application in connection with the revoked, denied, or not renewed facility, the disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1108 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2756 (December 2007), amended LR 36:333 (February 2010), LR 36:832 (April 2010), amended by the Department of Children and Family Services, Economic and Self-Sufficiency Section LR 36:

#### **§7359. Procedures**

A. - I.1. ...

##### **2. Disqualification of Facility and Provider**

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any pending application by the same provider shall be treated as an application for a new facility for purposes of this section and shall be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. - c. ...

d. With respect to an application in connection with the revoked, denied, or not renewed facility, the disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of

Family Support, LR 33:2771 (December 2007), amended LR 36:335 (February 2010), LR 36:833 (April 2010), amended by the Department of Children and Family Services, Economic and Self-Sufficiency Section LR 36:

### **Part V. Community Services**

#### **Subpart 8. Residential Licensing**

##### **Chapter 67. Maternity Homes**

###### **§6703. Definition**

A. - B.1. ...

##### **2. Disqualification of Facility and Provider**

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any pending application by the same provider shall be treated as an application for a new facility for purposes of this Section and shall be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. - c. ...

d. With respect to an application in connection with the revoked, denied, or not renewed facility, the disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:799, 835 (April 2010), amended by the Department of Children and Family Services, Child Welfare Section LR 36:

###### **§6955. Procedures Child Residential Care**

A. - F.1. ...

##### **2. Disqualification of Facility and Provider**

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any pending application by the same provider shall be treated as an application for a new facility for purposes of this Section and shall be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. - c. ...

d. With respect to an application in connection with the revoked, denied, or not renewed facility, the

disqualification period provided in this Section shall include any affiliate of the provider.

G. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:836, 842 (April 2010), amended by the Department of Children and Family Services, Child Welfare Section LR 36:

#### **Family Impact Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses.

#### **Small Business Impact Statement**

The impact of the proposed Rule on the family formation, stability, and autonomy has been considered. It is estimated that the proposed action will have no impact on the family.

#### **Public Hearing**

A public hearing will be held at 9:00 a.m. on Thursday, August 26, 2010 at the Department of Children and Family Services, 627 N. 4<sup>th</sup> Street, Iberville Building, Second Floor, Room 2-316, Baton Rouge, LA, to receive comments on this proposed Rule. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at said hearing.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

#### **Public Comments**

Written comments should be sent to Joseph Bruno, Child Welfare Administrator, at P.O. Box 3318 Baton Rouge, LA 70821, and must be received no later than the close of business on August 27, 2010.

Ruth Johnson  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Daycare Services—Residential Licensing**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

State licensing regulations for child care facilities and child placing agencies provide for a disqualification period for licensees who have had a prior license revoked for failure to comply with State laws and regulations governing facilities providing out-of-home care for children.

The amendments to Title 67, Part III, Subpart 21, Chapter 73, Child Day Care Licensing, and LAC Title 67, Part V, Subpart 8, Chapters 67-69 propose to clarify the definition of the term "Affiliate."

The only cost associated with this rule is the cost of publishing rulemaking, which is estimated to be \$672 (\$168.00 per page x 4 pages = \$672.00) \$336 State General Funds; \$336 Federal Funds. This one-time cost is routinely included in the agency's budget.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

DCFS estimates that as a result of this rule less than 1% of these facilities will be closed, which will result in some minimum impact on Self-generated revenues collected by the Economic Stability and Self-Sufficiency Section and the Licensing Section for annual license fees. The amount of this impact cannot be determined because of the uncertainty of the number of facilities that will be closed or the licensed capacity of these facilities, which determines the amount of the fee ranging from \$25 to \$250.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule amends the licensing standards that prevent licensees of these facilities from operating for a period of two years upon revocation or non-renewal of their license for non-compliance, which will cease their ability to generate income from providing these services. DCFS cannot determine the amount of financial impact this rule will have on these providers as it would depend upon their licensed capacity, the number of part-time and/or full-time individuals that they actually cared for, and the rates that they charge for care.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule amends the licensing standards that prevent licensees of these facilities from operating for a period of two years upon revocation or non-renewal of their license for non-compliance, which may cease their ability to employ daycare workers. DCFS cannot determine the impact this rule will have on employment of daycare workers by these providers.

Joseph Bruno  
Child Welfare Administrator  
1007#107

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Culture, Recreation and Tourism State Library of Louisiana**

State Library (LAC 25:VII.Chapters 1-53)

This Notice of Intent is being repromulgated to correct a submission error. The original Notice of Intent was published in the June 20, 1010 *Louisiana Register* on pages 1281-1287.

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 44:718 (D), that the State Library of Louisiana proposes to change the content of Chapters 1, 3, 5, 13, 23, 31, 43, 45, 51 and 53 to reflect agency and departmental name changes as well as changes in procedures within the agency.

#### **Title 25**

#### **CULTURAL RESOURCES**

#### **Part VII. State Library**

#### **Subpart 1. Readers' Services**

#### **Chapter 1. Eligible Public**

#### **§101. Use of Library**

A. Any citizen or any public, school, academic, special, or state institutional library is eligible to use without charge the library materials and services of the State Library of Louisiana, as provided in these rules.

**AUTHORITY NOTE:** Adopted in accordance with R.S. 25:9 and R.S. 25:16.

**HISTORICAL NOTE:** Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by

the Department of Culture, Recreation and Tourism, State Library, LR 36:

**§103. Information and Loan**

A. Any citizen may use library materials and receive information and reference service at the State Library.

B. Any citizen registered for library service with his local public library shall borrow State Library printed materials through his local library. Exceptions to this rule are:

1. if the State Library receives telephone or written authorization from a patron's parish library including facsimile or electronic mail, he may borrow direct with the materials being charged to the parish library.

C. Students and faculty in institutions of higher learning, and residents and staff of other state institutions may, within the library regulation of such institutions, borrow State Library printed materials through those libraries.

D. Elementary and secondary school libraries may borrow State Library materials through their local public libraries.

E. Information, reference, and loan services of the State Library are available direct to:

1. state elected and appointed officials and state employees including those who are retired;
2. accredited members of the Louisiana public information media;
3. officers and employees of agencies listed in the Louisiana State Government Directory;
4. students and faculty members of the Louisiana State University Graduate School of Library and Information Science;
5. all public, academic, special, and state institutional libraries whether in or outside of the state;
6. State Library of Louisiana Board of Commissioners.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9 and R.S. 25:16.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

**§107. Blind and Physically Handicapped**

A. Any Louisiana resident who cannot use standard printed materials because of temporary or permanent visual impairment or physical handicap may use directly the special library materials and services of the State Library's Talking Books and Braille Library. Eligibility based on this qualification required by the federal government must be certified by a professional in the medical, social work, or educational field.

B. This service is also extended to schools, hospitals, nursing homes and other agencies having one or more eligible handicapped persons in their care.

C. Eligible Louisiana residents temporarily out of state (for not longer than three months) may continue to be served at their destination point. For longer periods, it is recommended that temporary service be applied for from the library for the blind and physically handicapped regularly serving the area of their temporary residence. United States citizens who move either temporarily or permanently overseas (including Puerto Rico, Guam and the Canal Zone) will be referred to the Library of Congress, Division for the Blind and Physically Handicapped, for service.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9 and R.S. 25:16.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

**Chapter 3. Library Materials**

**§301. Information and Loan of Materials**

A. Library materials available for use in the State Library or on loan and the conditions for use are:

1. books, pamphlets, documents, audio-visual materials;

- a. all may be used in the State Library;
- b. all are available for loan except volumes of expensive reference sets, the current editions of heavily used reference books, certain other reference books when needed pages can be Xeroxed, genealogy books, rare books, and books in fragile condition;

c. the normal loan period for materials is 28 days. Materials with reserves are loaned for 21 days. Materials may be renewed twice for a total loan period of 84 days. Renewals will not be made on materials with reserves;

2. magazines:

a. all may be used in the State Library and all may circulate except the current issue and those in fragile condition in which case a photocopy of the desired article may be made;

b. loan periods and extensions are the same as for books above;

3. newspapers. Newspapers in print may be used in the library. Although newspapers do not circulate photo copies can be provided at \$0.10 per exposure;

4. microfilm. All microfilm which include among other items Louisiana newspapers, Louisiana census records, some parish records such as marriage, succession, and probate may be used in the State Library. Microfilm reader-printers are available for patrons' use. Rolls that are in duplicate circulate for two weeks only with a limitation of five rolls to patron per loan;

5. maps. All maps may be used in the State Library. Maps that are in duplicate circulate for 28 days;

6. photographs and art works. All photographic art works may be used in the State Library, but do not circulate;

7. slides. All slides may be used in the State Library.;

8. vertical file material. All vertical file materials (clipped and mounted newspapers and magazine articles, current and retrospective) may be used in the library;

B. Fines and fees for library materials are:

Fine for Overdue Materials	\$.10 per day per item up to a maximum of \$10.00 per item
Replacement Cost for Lost Materials	Replacement cost plus \$25.00 processing fee

1. The State Library offers a 3-day grace period on overdue items. On the fourth day, the fine is charged for every day the item is late, including the grace period, weekends and holidays. The State Library offers an after-hours deposit box for returning items when the library is closed. Items retrieved from this box will be assumed to have been returned on the last day the library was open.

2. If an item has been published in the past five years, the retail price of the item plus the processing fee will be

considered replacement cost and invoiced to the user when it is three months overdue. If an item was published six or more years ago, then the current replacement cost will be charged. If an item is out-of-print, the average out-of-print cost will be charged.

3. If an item is returned within the same fiscal year in which it was lost and paid, then the user is entitled to a full refund of the charges. No refund is available after the end of the fiscal year.

C. Meeting Rooms. The primary purpose of the meeting rooms within the State Library is for library programs and training. When not in use, meeting rooms may be available to other entities. Fees are outlined below:

Room	Maximum Seating	CRT Use	Other Governmental Agency Use	Private Use
Seminar Center (1 <sup>st</sup> Floor)	100	\$0	\$200 per day \$125 per half day	\$500 per day \$300 per half day
Capitol View Room (5 <sup>th</sup> floor)	15 tables; 30 classroom style	\$0	\$200 per day \$125 per half day	\$500 per day \$300 per half day
Room 221 (2 <sup>nd</sup> Floor)	15	\$0	\$100 per day \$65 per half day	\$200 per day \$125 per half day
Rooms 128, 132 (1 <sup>st</sup> Floor)	8	\$0	\$75 per day \$40 per half day	\$125 per day \$75 per half day

1. Additional charges:

- a. \$200 cleaning deposit for any event at which food is served (may be waived for governmental agency use) (refundable);
- b. \$25 per instance for use of library laptop;
- c. \$25 for use of library LCD projector and screen;
- d. \$25 for use of flip chart (includes one pad of paper) and markers.

2. Users of the meeting room must abide by the State Library meeting room policy (i.e., user cannot charge admission, cannot sell anything, etc.). Meeting rooms are only available during the normal business hours of the State Library.

3. Priority for use of library meeting facilities is as follows:

- a. State Library activities;
- b. other library-related activities and organizations;
- c. CRT agencies;
- d. other governmental agencies;
- e. non-governmental agencies or individuals (may only reserve it 30 days in advance).

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library of Louisiana, LR 36:

### **§305. Blind and Physically Handicapped Materials**

A. Library materials available include books and magazines recorded on discs, open-reel magnetic tapes, and cassettes; and books and magazines printed in large type and embossed in Braille. Most of these materials are provided by the Library of Congress through its national books for the blind and handicapped program.

B. Library materials are delivered to borrowers' homes and agencies by parcel post, and must be returned to the State Library by parcel post. All postage service is free. Users may borrow direct from the State Library if they wish.

C. The loan period is one month for individuals, the school year for schools. Renewals are granted depending on the demand for specific titles.

D. The number of books per loan is determined by the patrons themselves, the speed with which they read and return books, their needs, and their storage facilities. Agencies may arrange for deposit collections.

E. Especially designed talking book machines cassette and digital players are provided on loan from the State Library or Talking Book and Braille Library. Patrons must provide their own open-reel tape playing equipment.

F. Repair and maintenance of equipment is arranged by the official equipment lending agency which is the Talking Books and Braille Library.

G. Application forms for use and information about the service are available from the State Library, any Louisiana public library, and the Talking Books and Braille Library, or any of its area offices. Applications may be filed with any of the above.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

## **Chapter 5. Services**

### **§501. Information and Loan Services**

A. Services include:

1. filling requests for information; for specific titles, by specific authors, and for material on a particular subject;
2. verifying and locating books and/or other materials not in the State Library collection for direct borrowing by the requesting library;
3. making referrals to other sources;
4. selecting books, periodicals, and other materials for purchase to meet demand, and to develop the collection;
5. making or ordering photo copies, or microform prints, for all authorized users and borrowers;
6. compiling bibliographies;
7. instructing patrons in the use of the State Library.

B. Limitations on services include:

1. not performing genealogical research;
2. assisting but not providing extensive research for students;
3. assisting, but not searching indexes where available to patrons;
4. not borrowing books on genealogy, juvenile books, popular fiction, best-selling nonfiction likely to be in current demand, medical or legal texts (except for a member of the medical or legal professions);
5. not borrowing from an academic institution for a student of that institution.

C. Charges for Service. Services are free except for photocopying and microform prints. The charge for this service is \$0.10 per exposure; a minimum of \$1 is charged for mail orders.

D. Use of Gumbo Digital Images are subject to fees as listed below:

Entity	Use	Price per Image
Individual	Personal/Educational	\$10
Non-profit	Editorial	\$20
	Film/video/advertising	\$50

Entity	Use	Price per Image
Commercial	Editorial	\$50
	Film/video/advertising	\$100

NOTE: Rates and fees will be less than local commercial pricing and may be adjusted as needed to keep up with general business practices. In addition, the state librarian may make exceptions to fees as deemed necessary. The existing price structure as well as the Request for Permission to use is on our website.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

#### §505. Blind and Physically Handicapped Services

A. Services include:

1. lending library materials from the Talking Books and Braille Library collection;
2. making every effort to locate outside the state any title the patron may request;
3. making selections from lists of requests submitted by the patron. Catalogs of the collection are sent to the patron upon registration, and periodically thereafter;
4. making selections for patron on request based on his personal interests and on information provided in his online profile;
5. purchasing, or producing by volunteers, after evaluation of the request, materials for college or vocational use and titles of Louisiana or regional interest;
6. sending names of patrons to the American Foundation for the Blind to assure patrons' receipt of official publications;
7. sending on request for addition to mailing lists names of patrons to publishers of magazines available without charge.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

#### §507. Patrons' Right to Privacy

A. State Library employees shall not divulge information regarding the materials used by any patron nor shall they identify the users of particular library materials without the consent of the individuals concerned. Such privileged client information will only be made available by the State Library on order from a court of competent jurisdiction.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repromulgated by Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1576 (July 2002), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

### Subpart 2. Library Technical Services

#### Chapter 13. Louisiana Union Catalog

##### §1301. Louisiana Union Catalog Program Functions

A. The Louisiana Union Catalog Program provides a continually updated electronic file listing and description of all library materials by publicly funded public and academic libraries.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by

the Department of Culture, Recreation and Tourism, State Library, LR 36:

##### §1303. Incorporation of Titles Submitted by Libraries

A. Responsibility for the currency and accuracy of holdings information in the electronic databases is charged to each individual library.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

##### §1305. Bibliographic and Location Information

A. Bibliographic and location information contained in the central electronic file is available to anyone on request.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

### Subpart 3. Library Development

#### Chapter 23. Regional Library Systems

##### §2305. Definitions of Conditions for Qualifying for a Library System Grant

*Designated as a System*—parishes grouped geographically in natural trade areas for library cooperation.

*Director of the System*—the chief administrative officer.

*Expenditures for Service*—expenditures for personnel, library materials, binding and supplies, purchase, repair or replacement of furnishings and equipment, and costs necessary for the maintenance of the plant. It does not include capital expenditures which result in the acquisition of or addition to fixed assets, e.g., building sites, new buildings and building additions, equipment (including initial book stock), furnishings for new or expanded buildings. It excludes income in kind (free rent and utilities, staff members paid by another agency, the value of volunteer staff time, gift books and gift subscriptions to periodicals). If funds are saved over a period of years for replacement of equipment (or for the purchase of new equipment), the amount saved during the year under consideration may be counted in the expenditures for service for that year; however, when the total amount is spent during one year (example: for purchase of a bookmobile) only the amount budgeted for that year may be counted in expenditures for service.

*Library Center*—the administrative unit to house the staff required to administer the system, to accommodate the services performed, and to provide an in-depth collection of library materials to permit ready access by the total citizenry of the system.

*Library System*—a group of libraries within a defined geographical area working together for the improvement of library service for all residents of the area.

*Membership in the System*—participation in the plan of service developed by the executive council which is made up of the administrative librarians of the member libraries of the system.

*Resources*—all types of library materials including books, periodicals, films, recordings, microfilm, etc.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

**Subpart 4. State Aid to Public Libraries Grant**  
**Chapter 31. Disbursement of State Aid Grants**  
**§3101. Definitions**

A. The following terms have the respective meanings ascribed to them, except in those instances where the context clearly indicates a different meaning.

*Audiovisual Materials*—educational materials directed at both the senses of hearing and sight, and includes motion pictures, videocassette, audiocassettes, CDs, DVDs, sound and silent filmstrips, slide sets, recordings, microprint, and art works used in library collections.

*Consolidated Library System*—a library system, established by the governing bodies or authorities of two or more parishes as provided in R.S. 25:211, which crosses parish lines and is governed by a single board of trustees, administered by a single head librarian, and within which all of the service outlets are branches of a single institution.

*District Library*—a library established by state law, for a defined district within a parish, to serve residents of the district.

*Free Basic Library Service*—standard library service including the use of the principal circulating collection of the library standard reference/information services and electronic materials without charge.

*Municipal Library*—a library, established by one or more municipal governing authorities as provided by law to serve all residents of the municipality or municipalities and which may or may not serve additional persons.

*Nonconsolidated Library System*—a library system which is composed of two or more autonomous member libraries, each having its own board of trustees, controlled by representatives of member libraries, and operated from a designated library center under the supervision of a system director, and which receives special financial support from local, regional or state appropriations to provide more comprehensive library service in the geographical area served by the system.

*Parish Library*—a library, established by a parish governing authority, as provided by law to serve all residents of the parish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), amended LR 13:392 (July 1987), LR 24:2232 (December 1998), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

**§3103. Submission of Applications**

A. The state librarian shall establish a program of supplemental grants to libraries for the purchase of technology enhancement, technological information resources, books, audiovisual materials, newspapers, and periodicals in accordance with the provisions of this Part. The state librarian may establish rules and regulations for implementation of this program in accordance with the Administrative Procedure Act. Grants may be made from funds appropriated to the State Library for allocation to libraries as provided herein.

B. Any parish library which serves all residents of the parish, any municipal library which serves all residents of a parish which does not have a parish library, any consolidated library system, and any district library shall be entitled to apply annually to the state librarian to receive supplemental grants in accordance with the provisions of this Part.

C. Applications to receive supplemental grants shall be submitted with the written approval of the Library Board of Control.

D. Grants shall be made by the state librarian on the basis of annual applications for grants submitted to the state librarian. Applications for state fiscal year must be made by November 1 of the same state fiscal year. Exceptions for extending expenditures to the next fiscal year may be granted by the state librarian.

E. Applications shall contain such information as may be requested by the state librarian to establish the eligibility of the library under the provisions of this Part and rules and regulations promulgated by the state librarian. Applications shall also contain a proposal for expenditure of funds for which application is made.

F. Funds granted under the provisions of this Part shall be expended only for the purchase of technology enhancement, technological information resources, books, audiovisual materials, newspapers, and periodicals. Exceptions for expenditures on items other than those listed above may be granted by the state librarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:108 (March 1980), amended LR 24:2232 (December 1998), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

**§3105. Eligibility**

A. Each library or consolidated library system represented by the applicant must be legally established according to Louisiana Revised Statutes Title 25, Section 211, except for the New Orleans Public Library which was established prior to the enactment of Title 25.

B. Each library or consolidated library system must agree to serve all patrons with free basic library service with no denial of service by reason of race, color, national origin, religion, sex, age, marital status, or political affiliation.

C. Each library or consolidated library system shall show evidence of working toward the standards for public library service in Louisiana as adopted by the Louisiana Library Association.

D. Each library or consolidated library system participating in the program of supplemental grants shall endorse and comply with the interlibrary loan code adopted by the Louisiana Library Association to assure the interlibrary availability of materials purchased from funds granted herein.

E. A parish library which serves all residents of the parish, a municipal library which serves all residents of a parish which does not have a parish library, and a consolidated library system shall be eligible to apply to receive supplemental grants if other conditions of eligibility are met.

F. If eligibility to receive state grants under the rules is lost for any reason, the following conditions must be met to re-establish eligibility.

1. The state librarian will be notified that the library or consolidated library system will be ineligible to participate in the program of supplemental grants by submission of the annual report which when filed by July 1 will indicate the inability to "maintain effort". Said library or consolidated library system shall not be declared ineligible until after the receipt of their annual report.

2. The library or consolidated library system which has been declared ineligible in writing by the state librarian shall not receive state aid funds for the succeeding state fiscal year (July 1-June 30).

3. The ineligible library or consolidated library system shall continue to make annual application to the State Library to be filed for the next succeeding year so when circumstances permit participation in the supplemental grants program the library or consolidated system will have an application on file and will be eligible.

4. When an ineligible library or consolidated library system submits evidence in the form of the annual report of a return to the required level of maintenance of effort for the expenditure on library materials and total income received from local sources for the stipulated period of time, that library or consolidated library system will be declared eligible for participation in this program. Payments will begin with the state's next fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:108 (March 1980), amended LR 13:392 (July 1987), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

### **§3113. Appeal Process**

A. If a public library, consolidated library system, or district library is denied the grant for technology materials and/or library materials, the avenue to appeal this decision will be first the state librarian, next, to the secretary of the Department of Culture, Recreation and Tourism, and finally, to the lieutenant governor of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:109 (March 1980), amended LR 13:392 (July 1987), LR 24:2232 (December 1998), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

## **Subpart 5. Public Document Depository System**

### **Chapter 43. Deposit of Publications**

#### **§4303. Public Documents Required to be Deposited**

A. The public documents required to be deposited are those defined in R.S. 25:121.1.

1. Electronic documents denotes any discrete public document published in a static electronic or digital format. Excluded from the definition of public documents are correspondence, interoffice or intra-office memoranda, records of an archival nature; interactive, non-discrete, constantly changing electronic items such as Web sites, databases, ASP (active server pages), or software programs.

2. Public document means informational matter, regardless of format, method of reproduction, source, or copyright, originating in or produced with the imprint of, by

the authority of, or at the total or partial expense of, any state agency, including material published with federal funds or by sub-state planning districts. This definition incorporates publications released by private bodies such as research and consultant firms under a contract with and/or under the supervision of any state agency. Further, this definition specifically includes journals, laws or bills, statutes, codes, rules, regulations; newsletters, bulletins, state plans, brochures, periodicals or magazines; minutes of meetings of boards and commissions, transcripts of public hearings; reports, directories, statistical compendiums, bibliographies, pamphlets, lists, books; charts, maps, surveys; other printed matter; microfilm, microfiche, audiovisuals; electronic documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:1577 (July 2002), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

## **Chapter 45. Depository Library System**

### **§4501. Statutory Depositories**

A. The State Library of Louisiana and Louisiana State University Library at Baton Rouge are legally designated complete depository libraries. They shall be the historical depository libraries, shall receive two copies of all public documents received by the recorder for distribution, and shall retain permanently one copy of each. The State Library of Louisiana is responsible for archiving and providing permanent public access to documents it receives that are issued solely in electronic formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:188 (April 1982), amended LR 28:1577 (July 2002), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

### **§4507. Termination of Depository Contract**

A. Termination of the contract between the State Library of Louisiana and the depository shall be by written notice six months in advance of the proposed date of termination. The state documents received shall be retained by the depository until the normal retention date, unless otherwise advised by the recorder of documents.

B. Failure of a depository to abide by the depository law, rules and regulations and guidelines shall result in termination of depository contract by the state librarian upon six months written notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:188 (April 1982), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

## **Subpart 6. Board of Library Examiners**

### **Chapter 51. Certification**

#### **§5103. Candidate Requirements**

A. Requirements to be met by candidates for executive certificates are:

1. a baccalaureate degree;
2. professional education, culminating in a Masters Degree in Library and Information Science representing a

minimum of five years of study beyond secondary school level. This degree must have been granted by a library school accredited by the American Library Association;

3. three years executive experience in a public library of recognized standing, after receiving the library science degree.

B. Candidates for temporary certificates must have all of the above qualifications except the years of executive experience. Such certificates are issued by the board only as emergency measures. It is expected that individuals holding temporary certificates will qualify for executive certificates within three years.

C. Candidates must attain a grade of at least 75 in the examination to be granted a certificate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 25:222-223.

**HISTORICAL NOTE:** Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

### **Chapter 53. Examination**

#### **§5301. Examination Criteria**

A. The examination covers the following aspects of public library service:

1. library organization and administration;
2. library budgets and financial operation;
3. standards for library service;
4. Louisiana laws pertaining to libraries and library administration;

5. current status of library development in Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 25:222-223.

**HISTORICAL NOTE:** Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

#### **§5305. Application**

A. Application blanks for permission to take the examination may be obtained from the State Board of Library Examiners, State Library of Louisiana, Box 131, Baton Rouge, LA 70821.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 25:222-223.

**HISTORICAL NOTE:** Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended by the Department of Culture, Recreation and Tourism, State Library, LR 36:

#### **Family Impact Statement**

The proposed Rule will not affect the stability of the family, nor will they affect the authority and rights of persons regarding the education and supervision of their children. This Rule will not affect the functioning of the family. They will not affect the family earnings or family budget. This Rule will not affect the behavior or personal responsibility of children. Finally, neither the family nor local government will be able to perform the function as contained in this proposed Rule because the action proposed is strictly a state enforcement function.

#### **Public Comments**

Any person may submit data, views or positions, orally or in writing, to Rebecca Hamilton, state librarian, by writing to the State Library of Louisiana, P.O. Box 131, Baton

Rouge, LA 70821-0131, or by telephoning at 225-342-4923 and facsimile 225-342-3547.

Rebecca Hamilton  
State Librarian

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: State Library**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

No implementation costs or savings to state or local governmental units are anticipated as a result of this rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is an anticipated increase in annual revenue collections of approximately \$8,000 for the State Library of Louisiana due to the implementation of fines and an increase in the fee structure for meeting room and digital image use. The State Library of Louisiana currently does not charge fines for overdue books. It is estimated that implementing a fine for overdue library materials by 10 cents per day will result in an increase of \$3,000. The current charge to make copies of historic photographs for commercial use is \$10 and the new policy to raise these charges and begin charging for personal use will result in a revenue increase of \$4,000. The State Library will begin charging for meeting room use, which is estimated to increase revenue by \$1,000.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The estimated cost to the library patron will vary greatly. Persons with overdue library materials will have to pay a fine of 10 cents per day. Also, there are new fees for making digital copies of historical photographs and use of meeting rooms.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule is anticipated to have no impact on competition and employment in the public or private sectors.

Rebecca Hamilton  
State Librarian  
1006#071

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Board of Elementary and Secondary Education**

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Requirements to Add a Non-NCLB Secondary (Grades 6-12) Specialty Content Area (LAC 28:CXXXI.613)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §613, Requirements to Add a Non-NCLB Secondary (grades 6-12) Specialty Content Area (Agriculture, Business, Computer Science, Family and Consumer Sciences, Journalism,*

Marketing, Speech, Technology Education). This policy revision will allow individuals that currently hold secondary teaching certificates the option of taking a Praxis content exam or completing 21 semester hours to add a Non-NCLB secondary area to their certificate.

## **Title 28**

### **EDUCATION**

#### **Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel** **Chapter 6. Endorsements to Existing Certificates** **Subchapter A. Regular Education Level and Area Endorsements**

#### **§613. Requirements to Add a Non-NCLB Secondary (Grades 6-12) Specialty Content Area (Agriculture, Business, Computer Science, Family and Consumer Sciences, Journalism, Marketing, Speech, Technology Education)**

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), or special education certificate must achieve the following:

1. passing score for Praxis secondary specialty area exam in the content area; or 21 credit hours in the specialty content area; or
2. passing Praxis score for Principles of Learning and Teaching 7-12 exam.

B. Individuals holding a valid secondary certificate (e.g., 6-12, 7-12, 9-12) or an all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve one of the following:

1. passing score for the Praxis secondary specialty area exam; and
2. 21 credit hours in the specialty content area.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1816 (October 2006), amended LR 36:

#### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

## **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2010, to: Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES** **RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel Requirements to Add a Non-NCLB Secondary (Grades 6-12) Specialty Content Area**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This policy revision will allow individuals that currently hold secondary teaching certificates the option of taking a PRAXIS content exam or completing 21 semester hours to add a Non-NCLB secondary area to their certificate. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1007#035

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Board of Elementary and Secondary Education**

**Bulletin 746—Louisiana Standards for State Certification of School Personnel—Temporary Authority to Teach (TAT)**  
**(LAC 28:CXXXI.323)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §323, Temporary Authority to Teach (TAT). This revision in policy would reduce the number of years a Temporary Authority to Teach (TAT) can be issued to an individual from three years to one year. Current BESE policy allows a noncertified teacher to instruct students for three years on a Temporary

Authority to Teach (TAT). The proposed policy will reduce the number of years.

**Title 28  
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for  
State Certification of School Personnel  
Chapter 3. Teaching Authorizations and  
Certifications**

**Subchapter B. Nonstandard Teaching Authorizations**

**§323. Temporary Authority to Teach (TAT)**

A. Temporary Authority to Teach (TAT)—issued for one calendar year, while the holder pursues alternate certification program admission requirements or certification requirements. Upon completion of one year of employment on this certificate, for continued employment as a teacher in a Louisiana school system, the holder must fulfill guidelines for a Practitioner License or a higher-level certificate. A TAT cannot be issued to teachers who previously held a Temporary Employment Permit (TEP) or a standard teaching certificate.

B. An applicant must have a baccalaureate degree from a regionally accredited institution; passing scores on the Praxis Pre-professional Skills Tests (PPSTs) Reading and Writing examinations or appropriate scores on the ACT or SAT and at least a 2.20 GPA. Applicants who meet these eligibility requirements can apply for a TAT through their employing school district.

C. Districts submit the application and provide an affidavit signed by the local superintendent verifying that good faith efforts for recruiting certified personnel have been made, including posting all positions for which TATs are issued on the Teach Louisiana website; that "there is no regularly certified, competent, and suitable person available for the position."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1803 (October 2006), amended LR 36:

**Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No
3. Will the proposed Rule affect the functioning of the family? No
4. Will the proposed Rule affect family earnings and family budget? No
5. Will the proposed Rule affect the behavior and personal responsibility of children? No
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 746—Louisiana Standards  
for State Certification of School Personnel  
Temporary Authority to Teach (TAT)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
This revision in policy would reduce the number of years a Temporary Authority to Teach (TAT) can be issued to an individual from three years to one year. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1007#034

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

Scholarship/Grant Programs—Chafee Educational and Training Voucher Program (LAC 28:IV:Chapter 18)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking will create a new Chapter 18 in the Commission's Scholarships/Grants rules to provide for the administration of the Chafee Educational Training Voucher (ETV) Program by the Commission in accordance with a Memorandum of Understanding between the Louisiana Student Financial Assistance Commission and the Louisiana Department of Social Services, Office of Community Services. The Chafee Program provides grants to certain students who have been in the foster care system to pursue postsecondary education or training to enter the workforce.

**Title 28**  
**EDUCATION**

**Part IV. Student Financial Assistance—Higher  
Education Scholarship and Grant Programs**  
**Chapter 18. Chafee Educational and Training Voucher  
Program**

**§1801. General Provisions**

A. The Chafee Educational and Training Voucher (ETV) Program is administered by the Louisiana Office of Student Financial Assistance (LOSFA) in accordance with a Memorandum of Understanding by and between the Louisiana Student Financial Assistance Commission (LASFAC) and the Department of Social Services, Office of Community Services (DSS/OCS).

B. Description, History and Purpose. The Chafee ETV Program is administered in accordance with the federal Chafee Act, 42 U.S.C.A. 677 et seq., to provide grants to certain students who have been in the foster care system to pursue postsecondary education or training to enter the workforce.

C. Effective Date. The Chafee ETV Program will be administered by LOSFA beginning with the 2010-2011 academic year.

D. Eligible Semesters/Terms. The Chafee ETV is available to students throughout the academic year.

E. Award Amount. A Chafee ETV recipient may receive up to \$5,000 during the academic year. The award amount is determined by the recipient's financial need as calculated in accordance with the Higher Education Act of 1965, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:

**§1803. Definitions**

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

*Academic Year*—the academic year begins with the fall semester or term of the award year, includes the winter term, if applicable, the spring semester or term, and concludes with the completion of the summer session, if applicable.

*Educational and Training Voucher*—a federal grant that is available to certain students who have been in the foster care system based on the student's financial need.

*Foster Care System*—a protective service administered by the Louisiana Department of Social Services, Office of Community Services, or by a similar agency in another state, for children who must live apart from their parents due to neglect, abuse, or special family circumstances which requires that the child be cared for outside the family home.

*Institution of Higher Education*—a school that:

- a. is eligible to receive funds under Title IV of the Higher Education Act of 1965; and
- b. awards a bachelor's degree; or
- c. provides a program of study that is at least 2 years long in which a student can earn credit toward a bachelor's degree; or
- d. provides not less than one year of training towards gainful employment; or

e. provides vocational training for gainful employment and has been in existence for at least two years.

*Legal Guardianship*—the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the responsibility for the child's general welfare until he reaches the age of majority, subject to any residual rights possessed by the child's parents. It shall include, but not necessarily be limited to, the rights and responsibilities of legal custody as established in the Louisiana Children's Code.

*Postsecondary Education*—any educational program at an institution of higher education which admits as regular students those individuals with a high school diploma or equivalent, or admits as regular students persons who are beyond the age of compulsory school attendance, including, but not limited to, academic programs leading to an associate or baccalaureate, graduate or professional degree, or training which leads to a skill, occupational, or technical certificate or degree.

*Satisfactory Academic Progress*—a standard established in accordance with the Higher Education Act of 1965, as amended, by the institution at which a Chafee ETV recipient will be enrolled when receiving the ETV for measuring a student's progress in his or her educational program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:

**§1805. Eligibility**

A. To establish eligibility, a student must:

1. be ages 15 to 21, except that a student who was participating in the Chafee ETV Program at age 21 may continue to receive ETVs until he attains the age of 23; and
2. be in the foster care system, or aged out of the foster care system, or was under legal guardianship, or was in the foster care system or under legal guardianship and was adopted after age 16; and
3. be enrolled in postsecondary education; and
4. annually complete the Free Application for Federal Student Aid.

B. To continue to receive Chafee ETV, a student must:

1. not have attained the age of 21, or the age of 23 if the student was receiving a Chafee ETV at the age of 21 and received the Chafee ETV continuously; and
2. be making satisfactory academic progress in his program of study.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:

**§1807. Eligibility of Institutions of Higher Education**

A. Institutions of Higher Education Eligible to Participate

1. Louisiana public colleges and universities are authorized to participate in the Chafee ETV Program.
2. Regionally accredited private colleges and universities that are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in the Chafee ETV Program. As of June 2010, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola

University, New Orleans Baptist Theological Seminary, Our Lady of the Lake College, Our Lady of Holy Cross College, St. Joseph Seminary College, Tulane Medical Center, Tulane University and Xavier University.

3. Louisiana proprietary schools licensed pursuant to Chapter 24-A of Title 17 of the Revised Statutes are authorized to participate in the Chafee ETV Program.

4. Any other institution of learning that is an institution of higher education.

B. Audits. Institutions of higher education that participate in the Chafee ETV Program grant LOSFA, the Louisiana legislative auditor, and the Louisiana Department of Social Services the right to inspect records and perform on-site audits of each institution's administration of the program for the purpose of determining the institution's compliance with state law and applicable program rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:

### **§1809. Responsibilities of Participating Institutions of Higher Education**

#### A. Preliminary Eligibility Determination

1. Institutions of higher education must verify the student's age.

2. Institutions of higher education must determine whether the student is or was prior to age 18 an orphan or ward of the court in accordance with procedures established by the postsecondary institution for verifying information reported by the student on the Free Application for Federal Student Aid.

3. If the school determines that the student is an orphan or ward of the court in accordance with its procedures and this Section, it shall provide to LOSFA the student's name, social security number, and current address.

#### B. Continuing Eligibility

1. Institutions of higher education must verify the student is making satisfactory academic progress.

2. If a prior recipient is making satisfactory academic progress, it shall provide to LOSFA the student's name, social security number, and current address.

#### C. Award Amount Determination

1. Institutions of higher education will determine the student's Chafee ETV amount based upon his financial need in accordance with the Higher Education Act of 1965, as amended, and will report that award amount to LOSFA.

2. Institutions of higher education shall provide students the opportunity to appeal the amount of the Chafee ETV amount if the award to the student is less than \$5,000. Such appeals shall be conducted in accordance with the institution of higher education's procedures for appealing Title IV student aid eligibility. Immediately upon receipt of an appeal, the institution of higher education shall notify LOSFA of the appeal, the student's name, and the reason for awarding less than the full grant amount. In the event the student is not satisfied with the school's final decision on the appeal, the institution of higher education shall advise the student that he may appeal the institution of higher education's decision to the Department of Social Services.

#### D. Certification of Student Data

1. Upon request by LOSFA, and for the purpose of meeting federal audit requirements for the Chafee Grant, an institution of higher education shall report the following data:

- a. admission and enrollment; and
- b. semester hours attempted; and
- c. semester hours earned; and
- d. semester quality points earned; and
- e. resignation from the institution or withdrawal from all courses.

#### E. Program Billing

1. If the institution of higher education operates on a semester or term basis, it shall divide the student's annual Chafee ETV amount by the number of semester/terms the student will be attending and it shall bill LOSFA for the resulting amount at the beginning of each semester or term the student attends.

2. If the institution of higher education operates on a basis other than semester or term, it shall bill LOSFA for one quarter of the student's Chafee grant amount on September 1, December 1, March 1, and June 1, if the student's program of study is at least one full year. If the student's program of study is less one full year, the school will divide the Chafee ETV amount by the number of billing dates encompassed by that program and bill LOSFA the resulting amount.

3. Submission of a bill for a student is certification by the post-secondary institution that the student is enrolled at the institution and has maintained satisfactory academic progress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:

### **§1813. Responsibilities of the Louisiana Department of Social Services**

A. The Department of Social Services shall verify that a student:

1. was in the foster care system, or aged out of the foster care system; or
2. was under Legal Guardianship; or
3. was in the foster care system or under Legal Guardianship and was adopted after age 16; or
4. is a Native American whose Indian tribe has an approved plan under Title IV-E of the Social Security Act for foster care, adoption assistance, and kinship guardianship within that Indian tribe.

B. The Department of Social Services will notify LOSFA of any students who are eligible to receive a Chafee ETV and for whom LOSFA did not previously request verification in accordance with §1817.A, including those students who may be attending school in a state other than Louisiana.

C. In the event of receipt of notice of a shortfall and additional funds are not allocated for payment of all anticipated awards for subsequent semesters, terms and sessions during the academic year, the Department of Social Services shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:

**§1817. Responsibilities of LOSFA**

A. LOSFA shall:

1. verify a student's eligibility to receive a Chafee ETV with the Department of Social Services;
2. pay program funds to the eligible post-secondary institution in which the student is enrolled;
3. maintain a secure database of all information collected on recipients and former recipients, including name, address, social security number, program of study, name of the institution(s) the recipient attended, and amounts disbursed;
4. notify the Department of Social Services immediately if projections indicate that sufficient funds will not be available to pay all eligible students the amount originally awarded to those students at the beginning of the Academic Year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:

**§1819. Responsibilities of LASFAC**

A. LASFAC shall promulgate administrative rules in accordance with the Louisiana Administrative Procedure Act, in consultation with the Department of Social Services and in accordance with a memorandum of understanding entered into by and between LASFAC and the Department of Social Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:

**Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

**Small Business Statement**

The proposed Rule will have no adverse impact on small businesses as described in LSA-R.S. 49:965.2 *et seq.* (SG10117NI)

**Public Comments**

Interested persons may submit written comments on the proposed changes (SG10117NI) until 4:30 p.m., August 9, 2010, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge  
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Scholarship/Grant Programs—Chafee  
Educational and Training Voucher Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Chafee Education and Training Voucher (ETV) provides federal grants to students from the foster care system to access post-secondary education or training. This is an

existing program paid with federal funds. These rules allow the transfer of the administration of the program from one state agency to another.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules transfer the administration of the Chafee program to LOSFA. This program provides funds to disadvantaged students to access postsecondary education. Many of these students will attend an in-state school to further their education and remain in Louisiana upon completion of their education. This will provide Louisiana employers a better-educated workforce and may also attract out-of-state employers to Louisiana thus providing additional better paying jobs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Students attending post-secondary institutions will increase the number of educated/trained workers in the state, which will have a positive impact on competition and employment.

George Badge Eldredge  
General Counsel  
1007#018

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

Scholarship/Grant Programs  
Healthcare Educator Loan Forgiveness Program  
Eligible Schools  
(LAC 28:IV.1603)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5, and R.S. 17:3048.6).

This rulemaking amends the definition of Participating Institution to allow the payment of Health Care Education Loan Forgiveness Program funds to a student who will attend an out-of-state institution of higher education.

**Title 28**

**EDUCATION**

**Part IV. Student Financial Assistance—Higher  
Education Scholarship and Grant Programs  
Chapter 16. Health Care Educator Loan Forgiveness  
Program**

**§1603. Definitions**

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

\* \* \*

*Participating Institution*—a postsecondary institution that has been approved by the Board of Regents to participate in the Health Care Educator Loan Forgiveness Program.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:224 (February 2009), amended LR 36:

#### **Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

#### **Public Comments**

Interested persons may submit written comments on the proposed changes (SG10118NI) until 4:30 p.m., August 9, 2010, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

#### **Small Business Statement**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq. (SG10118NI)

George Badge Eldredge  
General Counsel

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Scholarship/Grant Programs Healthcare Educator Loan Forgiveness Program—Eligible Schools**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed change modifies the Scholarship and Grant Program Rules for the Health Care Educator Loan Forgiveness Program to allow recipients to obtain their masters or doctoral degree at an out-of-state school approved by the BOR. There is no cost or savings associated with this change.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The shortage of qualified Nursing and Allied Health program instructors and faculty at the state's colleges and universities has caused the schools to limit enrollment in these programs, which perpetuates the shortage of nurses and allied health professionals. The Health Care Educator Loan Forgiveness Program allows the schools to increase the number of faculty, which in turn allows an increase in student enrollment. This not only increases the number of nursing and allied health graduates but also results in an increase in self generated revenues for these schools through the collection of tuition in the outyears.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The Health Care Educator Loan Forgiveness Program helps colleges and universities to recruit and train qualified faculty to fill critical staffing shortages. Adding these staff positions allows these schools to accept more students into the high demand Nursing and Allied Health programs. The higher level of education or technical training for these students will have a positive impact on their earning potential and make them more marketable in the job market, thus eligible for higher paying jobs in the health care area. This will also provide a larger pool of highly trained healthcare workers for Louisiana employers to fill jobs in high demand areas currently experiencing staffing shortages.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The Health Care Educator Loan Forgiveness Program is a tool used by colleges and universities to increase student enrollment and thus nursing and allied health graduates in high demand occupational fields. This helps the private and public healthcare sectors to find and hire qualified and competent staff to provide healthcare services to the residents of Louisiana. This makes the state's healthcare industry more competitive and reduces staffing shortages in critical areas.

George Badge Eldredge  
General Counsel  
1007#020

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Student Financial Assistance Commission Office of Student Financial Assistance**

START Saving Program Account Deposits/Documentations  
(LAC 28:VI.305, 307, and 311)

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.).

This rulemaking increases the time an account owner has to make his/her first deposit after opening a START account from 60 to 180 days and extends the deadline for account owners to provide the tax documents required to establish the proper allocation of earnings enhancements.

#### **Title 28**

#### **EDUCATION**

#### **Part VI. Student Financial Assistance—Higher Education Savings**

#### **Chapter 3. Education Savings Account**

#### **§305. Deposits to Education Savings Accounts**

A. - A.2. ...

3. An initial deposit is not required to open an Education Savings Account; however, a deposit of at least \$10 must be made within 180 days from the date on the letter of notification of approval of the account.

A.4. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 35:236 (February 2009), LR 35:1234 (July 2009), LR 36:492 (March 2010), LR 36:

#### **§307. Allocation of Earnings Enhancements**

A. - B.4. ...

5. If an account owner is classified in §305.A.1 or 2 and the tax documents required by §307.B.2 are not received by February 15 immediately following the year for which the beneficiary of the account is being considered for an earnings enhancement, as an exception to §307.D, the account shall be allocated an earnings enhancement for the year being considered at the earnings enhancement rate

shown in §307.D for account owners who are members of the family of the beneficiary who report an adjusted gross income of \$100,000 and above.

6. Example. An account owner has made deposits in a START account for a beneficiary during calendar year 2010 and desires to receive the highest earnings enhancement rate authorized for those deposits. If the account owner did not file a Louisiana Income Tax Return for the tax year 2009 or is notified by LATTA that the Louisiana Department of Revenue could not validate his federal adjusted gross income, he must submit the tax documents for tax year 2009 required by §307.B.2.b so that they are received by LATTA no later than February 15, 2011, or his earnings enhancement rate will be defaulted to the rate for account owners who are members of the family of the beneficiary who report an adjusted gross income of \$100,000 and above.

C. - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1880 (November 2001), LR 28:779 (April 2002), LR 30:788 (April 2004), LR 30:2302 (October 2004), LR 34:1886 (September 2008), LR 36:

**§311. Termination, Refund, and Rollovers of an Education Savings Account**

A. - B.2. ...

3. The LATTA may terminate an account if no deposit of at least \$10 has been made within 180 days from the date on the letter of notification of approval of the account.

B.4. - I.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:444 (March 2007), LR 35:236 (February 2009), LR 36:492 (March 2010), LR 36:

**Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Public Comments**

Interested persons may submit written comments on the proposed changes (ST10119NI) until 4:30 p.m., August 10, 2010, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P. O. Box 91202, Baton Rouge, LA 70821-9202.

**Small Business Statement**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq. (ST10119NI)

George Badge Eldredge  
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: START Saving Program Account Deposits/Documentations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This rulemaking extends the deadline to make an initial deposit into a START Account and extends the deadline to submit tax return documentation. There are no implementation costs or savings to state and local governments because of these proposed changes.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and local governments will not be affected by the proposed changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed changes benefit START account owners by extending the deadline to make an initial deposit into a START Account and extending the deadline to submit tax return documentation. This gives account owners more flexibility to meet START Program requirements and make it more likely that account owners will receive the highest state match for which they qualify.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There are no anticipated effects on competition and employment resulting from these measures.

George Eldredge  
General Counsel  
1007#019

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

**Exemption for Tanks Storing Corrosive Materials  
(LAC 33:III.2103)(AQ312)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2103.G (AQ312).

This proposed Rule exempts tanks storing corrosive materials at the Rhodia, Inc. Baton Rouge facility from the "submerged fill pipe" provisions of LAC 33:III.2103.A and B. Existing tanks are currently operating under Permit No. 0840-00033-V2, issued November 30, 2009, and are identified as follows:

Tank Number	Service	TEMPO ID	Requirement Citation
30D260	Spent Sulfuric Acid	EQT008	LAC 33:III.2103.B
30D070	Spent Sulfuric Acid	EQT161	LAC 33:III.2103.B
30D100	Spent Sulfuric Acid	EQT163	LAC 33:III.2103.B
30D110	Spent Sulfuric Acid	EQT164	LAC 33:III.2103.B
30D120	Spent Sulfuric Acid	EQT165	LAC 33:III.2103.B
30D140	Spent Sulfuric Acid	EQT167	LAC 33:III.2103.B
30D150	Spent Sulfuric Acid	EQT168	LAC 33:III.2103.B
30D160	Spent Sulfuric Acid	EQT169	LAC 33:III.2103.B

Tank Number	Service	TEMPO ID	Requirement Citation
30D190	Spent Sulfuric Acid	EQT171	LAC 33:III.2103.B
20D120	Spent Sulfuric Acid	EQT176	LAC 33:III.2103.A
40D200	Treatment Services	EQT180	LAC 33:III.2103.B
40D250	Treatment Services	EQT177	LAC 33:III.2103.B
40D280	Treatment Services	EQT178	LAC 33:III.2103.B
40D210	Treatment Services	EQT181	LAC 33:III.2103.A
40D220	Treatment Services	EQT183	LAC 33:III.2103.A
40D290	Treatment Services	EQT179	LAC 33:III.2103.A
40D300	Treatment Services	EQT182	LAC 33:III.2103.A

The tanks in question are used to store spent sulfuric acid and other D001 corrosive materials and are equipped with submerged fill pipes. However, the design specifications for these submerged fill pipes are inconsistent with the definition of submerged fill pipe set forth in LAC 33:III.111, in that the fill pipe openings are greater than six inches from the tank bottoms. Spent sulfuric acid is highly corrosive and the internal specifications of the Rhodia tanks dictate a distance greater than six inches above the tank bottom to allow for diffusion and a reduction in the force of the incoming fluid to protect the integrity of the bottom of the tank. The definition does allow an exception from the six inch requirement, but only if the fill pipe is submerged "during all normal operations (nozzle shall not be uncovered more than twice per year)." However, the Rhodia facility is required for operational reasons to frequently draw down these tanks to below the fill pipe openings to avoid an excessive accumulation of solids. Solid accumulation results in more frequent tank cleanings, which create increased air emissions and the potential for personnel exposure.

For the twelve tanks listed as subject to LAC 33:III.2103.B, this exception applies only to the "submerged fill pipe" provision of Section 2103.B. Rhodia has equipped these tanks with vapor loss control devices in accordance with the other requirements of Section 2103.B and their air permit, and shall continue to operate and maintain the control devices. The basis and rationale for this Rule are to provide tanks storing corrosive materials with an exemption from the "submerged fill pipe" provisions of LAC 33:III.2103.A and B. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### Title 33

## ENVIRONMENTAL QUALITY

### Part III. Air

#### Chapter 21. Control of Emission of Organic Compounds

##### Subchapter A. General

#### §2103. Storage of Volatile Organic Compounds

A. - F. ...

G. Exemptions. The provisions of this Section (e.g., LAC 33:III.2103) do not apply to:

1. - 4. ...

5. with regard to the requirements of Paragraph C.1 of this Section, any storage tank that is used for less than two weeks in the calendar year, provided that the tank is empty and liquid-free when not in use;

6. with regard to the submerged fill pipe provisions of Subsection A of this Section, tanks, drums, or other containers storing pyrophoric catalyst at the Vistalon Production Facility of ExxonMobil Chemical Company's Baton Rouge Chemical Plant; and

7. with regard to the submerged fill pipe provisions of Subsections A and B of this Section, tanks, drums, or other containers used for the storage of corrosive materials, including but not limited to spent sulfuric acid and hazardous waste, at the Baton Rouge facility of Rhodia Inc.

H. - J. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 15:1065 (December 1989), repromulgated LR 16:27 (January 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:2242 (December 1998), LR 25:657 (April 1999), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 28:1763 (August 2002), LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:447 (March 2007), LR 33:2085 (October 2007), LR 36:

#### Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### Public Hearing

A public hearing will be held on August 25, 2010, at 1:30 p.m. in the Galvez Building, Room 1051, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

#### Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ312. Such comments must be received no later than September 1, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ312. These proposed regulations are available on the Internet at:

[www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM  
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Exemption for Tanks  
Storing Corrosive Materials**

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no costs or savings to state or local governmental units as a result of this proposed rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This rule is limited in scope, affecting only tanks storing corrosive materials at the Rhodia Inc. Baton Rouge facility. The rule grants an exemption from an environmental quality air rule to prevent premature failure of the affected tanks. Any economic benefits accruing from operation of the tanks in the exempted mode must be weighed against business losses that would be incurred from strict adherence to the rule, and are difficult to quantify.

The tanks in question are used to store spent sulfuric acid and other D001 corrosive materials and are equipped with submerged fill pipes. However, the design specifications for these submerged fill pipes are inconsistent with the definition of *submerged fill pipe* set forth in LAC 33:III.111, in that the fill pipe openings are greater than six inches from the tank bottoms. Spent sulfuric acid is highly corrosive and the internal specifications of the Rhodia tanks dictate a distance greater than six inches above the tank bottom to allow for diffusion and a reduction in the force of the incoming fluid to protect the integrity of the bottom of the tank. The definition does allow an exception from the six inch requirement, but only if the fill pipe is submerged "during all normal operations (nozzle shall not be uncovered more than twice per year)." However, the facility is required for operational reasons to frequently draw down these tanks to below the fill pipe openings to avoid an excessive accumulation of solids. Solids accumulation results in more frequent tank cleanings, which create increased air emissions and the potential for personnel exposure. Rhodia estimates that costs of the more frequent tank cleanings would be roughly \$170,000/year. For the seven "treatment services" tanks in hazardous waste service, Rhodia stated that not having the ability to draw down these tanks below the fill nozzle would cause disruption in their commercial hazardous waste treatment services business, resulting in lost business that would far exceed the excess tank cleaning costs.

For the twelve tanks listed as subject to LAC 33:III.2103.B, this exemption applies only to the "submerged fill pipe" provision of §2103.B. Rhodia has equipped these tanks with vapor loss control devices in accordance with the other requirements of §2103.B and their air permit, and shall continue to operate and maintain the control devices.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There will be no effect on competition. No effect on employment in the public or private sector will be realized.

Herman Robinson, CPM  
Executive Counsel  
1007#056

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

Incorporation by Reference—2009  
(LAC 33:I.3931; III.506, 507, 2160, 3003, 5116, 5122,  
5311, 5901; V.3099; IX.2301, 4901, 4903; and XV.1599)  
(MM014ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Environmental Quality regulations, LAC 33:I.3931; III.506, 507, 2160, 3003, 5116, 5122, 5311 & 5901; V.3099; IX.2301, 4901 & 4903; XV.1599 (Log #MM014ft).

This Rule is identical to federal regulations found in 10 CFR 71, App. A, 1/1/10; 40 CFR 51, App. M, 60-61, 63, 68, 70, 6(a), 117.3, 136, 266, App. I-IX and XI-XIII, 302.4, 302.6(e), 355.40(a)(2)(vii), 401 and 405-471, 7/1/09; and subsequent revisions to 40 CFR 60 and 63 in the *Federal Register* (see rule text), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No Fiscal or Economic Impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This proposed Rule incorporates by reference (IBR) into LAC 33:I, III, V, IX and XV the corresponding federal reportable quantity list of hazardous substances in 40 CFR 117.3 and 302.4, July 1, 2009; administrative reporting exemptions for certain air releases of Nox in 40 CFR 302.6(e) and 355.40(a)(2)(vii), July 1, 2009; Capture Efficiency Test Procedures in 40 CFR Part 51, Appendix M, July 1, 2009; Federal So2 Model Rule in 40 CFR Part 96, July 1, 2009; Standards of Performance for New Stationary Sources in 40 CFR Part 60, July 1, 2009; National Emission Standards for Hazardous Air Pollutants (NESHAP) in 40 CFR Part 61, July 1, 2009; NESHAP for Source Categories in 40 CFR Part 63, July 1, 2009; Chemical Accident Prevention and Minimization of Consequences in 40 CFR Part 68, July 1, 2009; Part 70 Operating Permits Program in 40 CFR 70.6(a), July 1, 2009; hazardous waste regulations in 40 CFR Part 266, Appendices I-IX and XI-XIII, July 1, 2009; National Pollutant Discharge Elimination System regulations in 40 CFR Parts 136, 401, 405-471, July 1, 2009; and radiation regulations in 10 CFR Part 71, Appendix A, January 1, 2010. Also incorporated are subsequent revisions to 40 CFR Part 60 and 63 promulgated in the *Federal Register*.

In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted in the LAC. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This incorporation by reference

package is being proposed to keep Louisiana's regulations current with their federal counterparts.

The basis and rationale for this proposed Rule are to mirror the federal regulations in order to maintain equivalency. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**  
**ENVIRONMENTAL QUALITY**

**Part I. Office of the Secretary**

**Subpart 2. Notification**

**Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges**

**Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges**

**§3931. Reportable Quantity List for Pollutants**

A. Incorporation by Reference of Federal Regulations

1. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

a. 40 CFR 117.3, July 1, 2009, Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

b. 40 CFR 302.4, July 1, 2009, Table 302.4—List of Hazardous Substances and Reportable Quantities.

2. Notification Requirements. The following administrative reporting exemptions are hereby incorporated by reference:

a. 40 CFR 302.6(e), July 1, 2009—Notification Requirements; and

b. 40 CFR 355.40(a)(2)(vii), July 1, 2009—Emergency Release Notification.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2006), LR 33:640 (April 2007), LR 33:2628 (December 2007), LR 34:69 (January 2008), LR 34:866 (May 2008), repromulgated LR 34:981 (June 2008), amended LR 35:1106 (June 2009), LR 36:

**Part III. Air**

**Chapter 5. Permit Procedures**

**§506. Clean Air Interstate Rule Requirements**

A. - B. ...

C. Annual Sulfur Dioxide. Except as specified in this Section, The Federal SO<sub>2</sub> Model Rule, published in the *Code of Federal Regulation* at 40 CFR Part 96, July 1, 2009, is hereby incorporated by reference, except for Subpart III—CAIR SO<sub>2</sub> OPT-In Units and all references to opt-in units.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:1622 (August 2007), LR 33:2083 (October 2007), LR 34:978 (June 2008), LR 35:1107 (June 2009), LR 36:

**§507. Part 70 Operating Permits Program**

A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2009. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:

**Chapter 21. Control of Emission of Organic Compounds**

**Subchapter N. Method 43—Capture Efficiency Test Procedures**

[*Editor's Note:* This Subchapter was moved and renumbered from Chapter 61 (December 1996).]

**§2160. Procedures**

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, July 1, 2009, are hereby incorporated by reference.

B. - C.2.b.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation

Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:

**Chapter 30. Standards of Performance for New Stationary Sources (NSPS)**

**Subchapter A. Incorporation by Reference**

**§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60**

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2009, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are the following revisions to 40 CFR Part 60: amendments to Subpart Ce and Ec as promulgated on October 6, 2009, in the *Federal Register*, 74 FR 51368-51415; and amendments to Subparts A and Y as promulgated on October 8, 2009, in the *Federal Register*, 74 FR 51950-51985.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:

**Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

**Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

**§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR Part 61, July 1, 2009, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR Part 61	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A – Appendix C]	

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1108 (June 2009), LR 36:

**Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2009, are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference are the following revisions to 40 CFR Part 63, applicable to major sources: amendments to Subpart A and CC as promulgated on October 28, 2009, in the *Federal Register*, 74 FR 55670-55691, and amendments to Subpart ZZZZ as promulgated on March 3, 2010, in the *Federal Register*, 75 FR 9648-9690.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2677 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:

**Chapter 53. Area Sources of Toxic Air Pollutants**  
**Subchapter B. Incorporation by Reference of 40 CFR**  
**Part 63 (National Emission Standards for**  
**Hazardous Air Pollutants for Source**  
**Categories) as It Applies to Area Sources**

**§5311. Incorporation by Reference of 40 CFR Part 63**  
**(National Emission Standards for Hazardous Air**  
**Pollutants for Source Categories) as It Applies to**  
**Area Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2009, are hereby incorporated by reference as they apply to area sources in the state of Louisiana. Also incorporated by reference are the following revisions to 40 CFR Part 63, applicable to area sources: technical correction to Subpart ZZZZZZ as promulgated on September 10, 2009, in the *Federal Register*, 74 FR 46493-46495; Subpart VVVVVV as promulgated on October 29, 2009, in the *Federal Register*, 74 FR 56008-56056; Subpart AAAAAA as promulgated on December 2, 2009, in the *Federal Register*, 74 FR 63236-63266; Subpart CCCCCC as promulgated on December 3, 2009, in the *Federal Register*, 74 FR 63504-63530; Subpart BBBB BB as promulgated on December 30, 2009, in the *Federal Register*, 74 FR 69194-69217; Subpart DDDDDDD as promulgated on January 5, 2010, in the *Federal Register*, 75 FR 522-551; technical amendment to Subpart CCCCCC as promulgated on March 5, 2010, in the *Federal Register*, 75 FR 10184-10186; and technical correction to Subpart AAAAAA as promulgated on March 18, 2010, in the *Federal Register*, 75 FR 12988-12989.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:

**Chapter 59. Chemical Accident Prevention and**  
**Minimization of Consequences**

**Subchapter A. General Provisions**

**§5901. Incorporation by Reference of Federal**  
**Regulations**

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2009.

B. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425

(March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009), LR 36:

**Part V. Hazardous Waste and Hazardous Materials**  
**Subpart 1. Department of Environmental Quality—**  
**Hazardous Waste**

**§1108. Manifest Tracking Numbers, Manifest Printing,**  
**and Obtaining Manifests**

A. 40 CFR 262.21 and the associated appendix, July 1, 2009, are hereby incorporated by reference. 40 CFR 262.21 establishes standards and procedures for registrants who apply early to, and obtain approval from, the Director, Office of Solid Waste, US EPA, to print and distribute hazardous waste manifest forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq. HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1256 (November 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 36:

**Chapter 30. Hazardous Waste Burned in Boilers and**  
**Industrial Furnaces**

**§3099. Appendices—Appendix A, B, C, D, E, F, G, H, I,**  
**J, K, and L**

**Appendix A. Tier I and Tier II Feed Rate and Emissions**  
**Screening Limits For Metals**

A. 40 CFR 266, Appendix I, July 1, 2009, is hereby incorporated by reference.

**Appendix B. Tier I Feed Rate Screening Limits for Total**  
**Chlorine**

A. 40 CFR 266, Appendix II, July 1, 2009, is hereby incorporated by reference.

**Appendix C. Tier II Emission Rate Screening Limits for**  
**Free Chlorine and Hydrogen Chloride**

A. 40 CFR 266, Appendix III, July 1, 2009, is hereby incorporated by reference.

**Appendix D. Reference Air Concentrations**

A. 40 CFR 266, Appendix IV, July 1, 2009, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105, Table 1 and LAC 33:V.3099.Appendix E, respectively.

**Appendix E. Risk-Specific Doses (10<sup>-5</sup>)**

A. 40 CFR 266, Appendix V, July 1, 2009, is hereby incorporated by reference.

**Appendix F. Stack Plume Rise [Estimated Plume Rise**  
**(in Meters) Based on Stack Exit Flow Rate and Gas**  
**Temperature]**

A. 40 CFR 266, Appendix VI, July 1, 2009, is hereby incorporated by reference.

**Appendix G. Health-Based Limits for Exclusion of**  
**Waste-Derived Residues**

A. 40 CFR 266, Appendix VII, July 1, 2009, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105, Table 1, 3025.B.1 and B.2.a, and LAC 33:V.2299.Appendix, Table 2, respectively.

**Appendix H. Organic Compounds for Which Residues Must Be Analyzed**

A. 40 CFR 266, Appendix VIII, July 1, 2009, is hereby incorporated by reference.

**Appendix I. Methods Manual for Compliance with the BIF Regulations**

A. 40 CFR 266, Appendix IX, July 1, 2009, is hereby incorporated by reference, except as follows.

A.1. - B. ...

**Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters**

A. 40 CFR 266, Appendix XI, July 1, 2009, is hereby incorporated by reference.

**Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces**

A. 40 CFR 266, Appendix XII, July 1, 2009, is hereby incorporated by reference, except that the footnote should be deleted.

**Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units**

A. 40 CFR 266, Appendix XIII, July 1, 2009, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105, Table 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:827 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:751 (April 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 33:640 (April 2007), LR 34:866 (May 2008), LR 35:1107 (June 2009), LR 36:

**Part IX. Water Quality**

**Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program**

**Chapter 23. Definitions and General LPDES Program Requirements**

**§2301. General Conditions**

A. - E. ...

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter shall refer to those regulations published in the July 1, 2009 CFR, unless otherwise noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:230 (February 2004), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 33:2365 (November 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009), LR 36:

**Chapter 49. Incorporation by Reference §4901. 40 CFR Part 136**

A. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2009, in its entirety, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009), LR 36:

**§4903. 40 CFR, Chapter I, Subchapter N**

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2009, are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:654 (April 2009), LR 35:1110 (June 2009), LR 36:

**Part XV. Radiation Protection**

**Chapter 15. Transportation of Radioactive Material §1599. Appendix—Incorporation by Reference of 10 CFR Part 71, Appendix A, Tables A-1, A-2, A-3, and A-4; Procedures for Determining A<sub>1</sub> and A<sub>2</sub> [Formerly §1517]**

A. Tables A-1, A-2, A-3, and A-4 in 10 CFR Part 71, Appendix A, January 1, 2009, are hereby incorporated by reference. These tables are used to determine the values of A<sub>1</sub> and A<sub>2</sub>, as described in Subsections B-F of this Section.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), amended LR 27:2233 (December 2001), LR 28:997 (May 2002), LR 29:701 (May 2003), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 34:2114 (October 2008), LR 35:1110 (June 2009), LR 36:

**Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

### Public Hearing

A public hearing will be held on August 25, 2010, at 1:30 p.m. in the Galvez Building, Room 1051, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

### Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by MM014ft. Such comments must be received no later than August 25, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of MM014ft. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM  
Executive Counsel

1007#057

### NOTICE OF INTENT

#### Department of Environmental Quality Office of the Secretary Legal Affairs Division

Revision of the Drinking Water Source Use  
(LAC 33:IX.Chapter 11)(WQ080)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX, Chapter 11 (WQ080).

LDEQ is revising the designation of the drinking water supply use in nine subsegments based on the evaluation of the existing use of drinking water supply in those subsegments. Descriptions of two subsegments are being revised to accurately reflect the waters that have an existing use of drinking water supply.

After a review of LDEQ's water quality standards and of information received from the Louisiana Department of Health and Hospitals, it was determined that the water quality standards needed to be revised to accurately reflect the waters that have an existing use of drinking water supply and to be in compliance with federal regulations (40 CFR 131.10). The basis and rationale for this Rule are to appropriately protect the waters of the state. Federal regulations (40 CFR 131.10 (a)) require that each state must specify appropriate water uses to be achieved and protected. LDEQ currently has 44 subsegments designated for the drinking water supply use. Most of these subsegments appropriately protect existing drinking water supplies, but in some of these subsegments, the drinking water supply use is not an existing use. An existing use is a use actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards (40 CFR 131.3 (e)). Federal regulations (40 CFR 131.10 (g)) allow states to remove a designated use if it is not an existing use. LDEQ is removing the drinking water supply use from nine subsegments in accordance with federal regulations.

Federal regulations (40 CFR 131.10 (i)) state that, where existing water quality standards specify designated uses less than those which are presently being attained, the state shall revise its standards to reflect the uses actually being attained. LDEQ determined that the descriptions of two subsegments needed to be revised to accurately reflect the waters that have an existing use of drinking water supply and to be in compliance with federal regulations (40CFR 131.10(i)). A portion of the Houston River Canal-which has an existing use of drinking water supply-was in a subsegment that was not designated as a drinking water supply. LDEQ is revising the description of subsegment 030806-554700 to extend drinking water protection to the aforementioned undersigned portion. Because of this revision, the description of an adjacent subsegment (030306 Bayou Verdine) needed to be revised. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

### Title 33

### ENVIRONMENTAL QUALITY

#### Part IX. Water Quality

#### Subpart 1. Water Pollution Control

#### Chapter 11. Surface Water Quality Standards

#### §1123. Numerical Criteria and Designated Uses

A. - E. ...

**Table 3. Numerical Criteria and Designated Uses**

**A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters**

Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO <sub>4</sub>	DO	pH	B A C	°C	TDS
<b>Atchafalaya River Basin (01)</b>									
***									
[See Prior Text in 010101. Atchafalaya River Headwaters....]									
010201	Atchafalaya River Mainstem--From Simmesport to Whiskey Bay Pilot Channel at mile 54	A B C	65	70	5.0	6.5-8.5	1	33	440
***									
[See Prior Text in 010301. West Atchafalaya Basin... Through 010901. Atchafalaya Bay and Delta....]									
<b>Barataria Basin (02)</b>									
***									
[See Prior Text in 020101. Bayou Verret... Through 021102. Barataria Basin Coastal....]									
<b>Calcasieu River Basin (03)</b>									
***									
[See Prior Text in 030101. Calcasieu River... Through 030305. Contraband Bayou....]									
030306	Bayou Verdine--south of the Houston River Canal to the Calcasieu River (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
***									
[See Prior Text in 030401. Calcasieu River - From below...Through 030806. Houston River--From Bear....]									
030806-554700	Houston River Canal--From 1 mile west of LA-388 to its terminuses at Mossville and the Houston River	A B C D F	250	75	[3]	6.0-8.5	1	32	500
***									
[See Prior Text in 030807. Bear Head Creek...Through 031201. Calcasieu River Basin Coastal....]									
<b>Lake Pontchartrain Basin (04)</b>									
***									
[See Prior Text in 040101. Comite River... Through 042209. Lake Pontchartrain Basin Coastal....]									
<b>Mermentau River Basin (05)</b>									
***									
[See Prior Text in 050101. Bayou Des Cannes... Through 050901. Mermentau River Basin Coastal....]									
<b>Vermilion-Teche River Basin (06)</b>									
***									
[See Prior Text in 060101. Spring Creek... Through 060204. Bayou Courtableau....]									
060206	Indian Creek and Indian Creek Reservoir	A B C	10	5	5.0	6.0-8.5	1	32	100
***									
[See Prior Text in 060207. Bayou des Glaisses... Through 061201. Vermillion-Tech River Basin Coastal....]									
<b>Mississippi River Basin (07)</b>									
***									
[See Prior Text in 070101. Mississippi River... Through 070601. Mississippi River Basin Coastal....]									
<b>Ouachita River Basin (08)</b>									
***									
[See Prior Text in 080101. Ouachita River... Through 080501. Bayou de L'Outre....]									
080601	Bayou D'Arbonne--From headwaters to Lake Claiborne	A B C	50	15	5.0	6.0-8.5	1	32	200
***									
[See Prior Text in 080602. Lake Claiborne... Through 081611. Bayou Funny Louis....]									
<b>Pearl River Basin (09)</b>									
***									
[See Prior Text in 090101. Pearl River... Through 090506. Thigpen Creek....]									
<b>Red River Basin (10)</b>									
***									
[See Prior Text in 100101. Red River....]									
100201	Red River--From US-165 to Old River Control Structure Outflow Channel	A B C	185	110	5.0	6.0-8.5	1	34	780
***									
[See Prior Text in 100202. Little River... Through 100402. Red Chute Bayou....]									
100403	Cypress Bayou--From headwaters to Cypress Bayou Reservoir	A B C F	100	25	5.0	6.0-8.5	1	32	300
***									
[See Prior Text in 100404. Cypress Bayou Reservoir....]									
100405	Black Bayou--From headwaters to spillway at Black Bayou Reservoir; includes Black Bayou Reservoir	A B C F	100	25	5.0	6.0-8.5	1	32	300
***									
[See Prior Text in 100406. Flat River... Through 101001. Sibley Lake....]									
101101	Cane River--From above Natchitoches to Red River	A B C F	25	25	5.0	6.0-8.5	1	32	100
***									
[See Prior Text in 101102. Kisatchie Bayou... Through 101607. Bayou Cocodrie....]									
<b>Sabine River Basin (11)</b>									
***									
[See Prior Text in 110101. Toledo Bend Reservoir....]									
110201	Sabine River--From Toledo Bend Dam to Old River below Sabine Island WMA	A B C	120	60	5.0	6.0-8.5	1	33	500

Table 3. Numerical Criteria and Designated Uses										
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters										
Code	Stream Description	Designated Uses	Numerical Criteria							
			CL	SO <sub>4</sub>	DO	pH	B A C	°C	TDS	
110202	Pearl Creek-From headwaters to Sabine River (Scenic)	A B C G	120	60	5.0	6.0-8.5	1	33	500	
*** [See Prior Text in 110301. Sabine River... Through 110701. Sabine River Basin Coastal...]										
Terrebonne Basin (12)										
*** [See Prior Text in 120102. Bayou Poydras... Through 120806. Terrebonne Basin Coastal...]										

ENDNOTES:

[1]... - [24]....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:1901 (September 2008), LR 35:446 (March 2009), repromulgated LR 35:655 (April 2009), amended LR 36:

**Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Public Hearing**

A public hearing will be held on August 25, 2010, at 1:30 p.m. in the Galvez Building, Room 1051, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

**Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ080. Such comments must be received no later than September 1, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ080. These proposed regulations are available on the Internet at: [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823

Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM  
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Revision of the Drinking  
Water Source Use**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
No implementation costs or savings to state or local governmental units are anticipated as a result of the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No increase or decrease in revenues is anticipated from the proposed action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
No persons or non-governmental groups will incur costs or realize economic benefits from the proposed action.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no impact on competition or employment in the public or private sector as a result of the proposed action.

Herman Robinson, CPM  
Executive Counsel  
1007#056

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Crime Victims Reparations Board**

Compensation to Victims (LAC 22:XIII.301)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and R.S. 46:1801 et seq., which is the Crime Victims Reparations Act, the Crime Victims Reparations Board hereby gives notice of its intent to promulgate rules and regulations regarding the awarding of compensation to applicants.

**Title 22**  
**CORRECTIONS, CRIMINAL JUSTICE AND LAW**  
**ENFORCEMENT**

**Part XIII. Crime Victims Reparations Board**

**Chapter 3. Eligibility and Application Process**

**§301. Eligibility**

A. To be eligible for compensation, an individual must have suffered personal injury, death or catastrophic property loss as a result of a violent crime.

1. Contribution

a. The Crime Victims Reparations Board may vote not to make an award to a claimant who is a victim, or who files an application on behalf of a victim, when any of the following occurs:

i. the victim was convicted, or serving a sentence for a felony offense committed within five years prior or subsequent to the date of victimization.

1.a.ii. - 3.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 31:2009 (August 2005), LR 35:65 (January 2009), LR 36:

**Family Impact Statement**

There will be no impact on family earnings or the family budget as set forth in R.S. 49:972.

**Public Comments**

Interested persons may submit written comments on this proposed rule no later than August 9, 2010, at 5 p.m. to Bob Wertz, Deputy Assistant Director, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Lamarr Davis  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT**  
**FOR ADMINISTRATIVE RULES**

**RULE TITLE: Compensation to Victims**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will likely result in an indeterminable decrease in state expenditures. To the extent that a crime victim has been convicted of a felony offense within five years, the victim would no longer be eligible for a reparation award.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of the proposed rule will not impact revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Implementation of the proposed rule will impact those victims who have been convicted of a felony offense within five years prior to or subsequent to the victimization and make them ineligible for a reparation award. The adoption of the rule seeks to clarify the situations in which applicants for reparations would not be approved.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no effect on competition or employment in the public or private sector as a result of this proposed amendment.

Joseph Watson  
Executive Director  
1007#047

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor**  
**Division of Administration**  
**Office of Group Benefits**

PPO Plan of Benefits—Continued Coverage:  
Michelle's Law (LAC 32:III.103)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend the eligibility provisions of its Plan Document to provide availability of continued coverage for students enrolled in post-secondary educational institutions who would otherwise lose eligibility due to a medically necessary leave of absence, as required by "Michelle's Law" (Public Law 110-381). Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation:

**Title 32**

**EMPLOYEE BENEFITS**

**Part III. Preferred Provider (PPO) Plan of Benefits**

**Chapter 1. Eligibility**

**§103. Continued Coverage**

A. - E.2.b. ...

F.1. Coverage may continue for a Employee's never-married Dependent child under the age of 24 years of age if, while enrolled as a full-time student in a post-secondary institution, the student ceases to meet the institution's full-time student criteria due to a medically necessary leave of absence. Coverage may continue until the earlier of:

a. one year from the start of the Medically Necessary leave of absence (COBRA rights would apply after the one year period has expired); or

b. the day the student's coverage would have otherwise ended under the terms of the plan.

2. For purposes of this provision, a "medically necessary leave of absence" includes an actual leave of absence from the post-secondary educational institution, as any other change in enrollment at the institution that:

a. begins while the student is suffering from a serious illness or injury.

b. is medically necessary; and

c. causes the loss of student status under the terms of the plan.

4. Written certification must be provided by a treating physician certifying that the student is suffering from a serious illness or injury that requires the medically necessary leave of absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1827 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 30:1191 (June 2004), LR 32:1884 (October 2006), LR 36:

**Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows: The proposed Rule will provide availability of continued coverage for students enrolled in post-secondary educational institutions who would otherwise lose eligibility due to a medically necessary leave of absence.

**Public Comments**

Interested persons may present their views, in writing, to Tommy D. Teague, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, August 23, 2010.

Tommy D. Teague  
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: PPO Plan of Benefits—Continued Coverage: Michelle's Law**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated this benefit change will cost the health plans of the OGB (PPO, HMO and CD-HAS) approximately \$121,000-\$627,000 in FY 10/11, \$133,000-\$687,000 in FY 11/12, and \$147,000-\$758,000 in FY 12/13. 'Michelle's Law' (HR 2851 of the 110th Congress signed into law October, 2008) extends eligibility for coverage for up to one year to a dependent child over the age of 21 who is enrolled in an institution of higher education, but who would otherwise lose coverage when a medically necessary leave of absence causes the dependent child to fall below fulltime student status. In addition there will be approximately \$3,000 in printing costs associated with this rule change in FY 2010/2011.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The revenues collections of state or local governmental units should not be affected for FY 2010/2011, but accumulated health plan expenditure increases as a result of this rule change could result in higher rate increases in future fiscal years, which would be shared between participating health plan members (individuals) and participating governmental agencies (employers).

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The propose benefit change will impact dependents over the age of 21 who are enrolled in an institution of higher education, but would lose health insurance coverage when a medically necessary leave of absence causes the dependent to fall below fulltime status.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment should not be affected as a result of this rule change.

Tommy D. Teague  
Chief Executive Officer  
1007#103

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of Group Benefits**

**PPO Plan of Benefits—Mental Health and Substance Abuse Benefits (LAC 32:III.703)**

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend the eligibility provisions of its Plan Document pertaining to mental health and substance abuse benefits to more closely align those benefits with the requirements of the Wellstone-Domenici Mental Health Parity and Addiction Equity Act of 2008 (parts of Public Law 110-343). Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation.

**Title 32**

**EMPLOYEE BENEFITS**

**Part III. Preferred Provider (PPO) Plan of Benefits**

**Chapter 7. Schedule of Benefits—PPO**

**§703. Mental Health and Substance Abuse**

**A. Co-Payments**

Inpatient Co-Payment	\$100 per day (Maximum \$300 per admission)
Outpatient Co-Payment	\$25 per visit

**B. Benefits**

NOTE: Requires prior approval of services.

In-Network - 100 % of eligible expenses after applicable Co-Payment
Out-of-Network (Member resides in Louisiana) - 70 % of eligible expenses after applicable Co-Payment, subject to balance billing
Out-of-Network (Member resides outside Louisiana) - 90 % of eligible expenses after applicable Co-Payment, subject to balance billing

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1844 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:340 (March 2003), LR 36:

**Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows. The

proposed Rule will enhance benefits for mental health and substance abuse treatment services, eliminating deductible as well as inpatient and outpatient treatment limitations.

### Public Comments

Interested persons may present their views, in writing, to Tommy D. Teague, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, August 23, 2010.

Tommy D. Teague  
Chief Executive Officer

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: PPO Plan of Benefits—Mental Health and Substance Abuse Benefits

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated this benefit change could cost the health plans of the OGB (PPO, HMO and CD-HAS) approximately \$900,000-\$1,900,000 in FY 10/11, \$1,000,000-\$2,000,000 in FY 11/12, and \$1,100,000-\$2,200,000 in FY 12/13. The projected cost increases are based upon actual OGB Mental Health claims. This benefits change more closely aligns OGB's benefits with the requirements of the Wellstone-Domenici Mental Health Parity and Addiction Equity Act of 2008. The benefit change includes: 1) Elimination of a separate \$200 deductible, 2) Removal of inpatient limit of 45 days per year, 3) Removal of outpatient limit of 52 visits per year. In addition there will be approximately \$3,000 in printing costs associated with this rule change in FY 2010/2011.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The revenues collections of state or local governmental units should not be affected for FY 2010/2011, but accumulated health plan expenditure increases as a result of this rule change could result in higher rate increases in future fiscal years which would be shared between participating health plan members (individuals) and participating governmental agencies (employers).

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

All members of all plans will now be eligible for the changes in benefits under the Mental Health Parity Laws.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment should not be affected as a result of this rule change.

Tommy D. Teague  
Chief Executive Office  
1007#101

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Office of the Governor Division of Administration Office of Group Benefits

PPO Plan of Benefits—Prescription Drug Benefits:  
Brand/Generic (LAC 32:III.323)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and

802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of its PPO Plan Document relative to prescription drug benefits to increase the member co-pay when a FDA Approved generic equivalent but a brand drug is dispensed. Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation.

### Title 32

### EMPLOYEE BENEFITS

#### Part III. Preferred Provider (PPO) Plan of Benefits

#### Chapter 3. Medical Benefits

#### §323. Prescription Drug Benefits

##### A. - B.12 ...

C. Outpatient prescription drug benefits are adjudicated by a third-party prescription benefits manager with whom the program has contracted. In addition to all provisions, exclusions and limitations relative to prescription drugs set forth elsewhere in this plan document, the following apply to expenses incurred for outpatient prescription drugs.

##### 1. In Network (participating pharmacy) Benefits

a. Regular Benefits. Upon presentation of the Group Benefits Program Health Benefits Identification Card at a network pharmacy, the plan member will be responsible for payment of 50 percent of the cost of the drug, up to \$50 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy. There is a \$1,200 per person per plan year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the plan member has paid \$1,200 of co-insurance/co-payments for eligible prescription drug expenses, the plan member will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

b. Dispense as Written (DAW) Reduced Benefits. The foregoing notwithstanding, when a generic is available but a brand drug is dispensed, the member will be responsible for payment of the full amount of excess cost (the difference between the brand and generic costs) in addition to the 50 percent of the cost the drug, up to \$50 per prescription dispensed.

2. In the event the plan member does not present the Group Benefits Program identification card to the network pharmacy at the time of purchase, the plan member will be responsible for full payment for the drug and must then file a claim with the prescription benefits manager for reimbursement, which will be limited to the rates established for non-network pharmacies.

3. If the plan member obtains a prescription drug from a non-network pharmacy in state, reimbursement will be limited to 50 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy. If the plan member obtains a prescription drug from a non-network pharmacy out of state, benefits will be limited to 80 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy.

4.a. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to:

- i. the prescription benefits manager's maximum allowable charge for the generic, when available; or
- ii. the prescription benefits manager's maximum allowable charge for the brand drug dispensed, when a generic is not available.

b. There is no per prescription maximum on the plan member's responsibility for payment of costs in excess of the eligible expense. Plan member payments for such excess costs are not applied toward satisfaction of the annual out-of-pocket threshold (above).

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations.

a. Up to a 30-day supply of drugs may be dispensed upon initial presentation of a prescription or for refills dispensed more than 120 days after the most recent fill.

b. For refills dispensed within 120 days of the most recent fill, up to a 90-day supply of drugs may be dispensed at one time, provided that co-payments shall be due and payable as follows.

i. For a supply of 1-30 days the plan member will be responsible for payment of 50 percent of the eligible expense for the drug, up to a maximum of \$50 per prescription dispensed, and 100 percent of excess cost.

ii. For a supply of 31-60 days the plan member will be responsible for payment of 50 percent of the eligible expense for the drug, up to a maximum of \$100 per prescription dispensed, and 100 percent of excess cost.

iii. For a supply of 61-90 days the plan member will be responsible for payment of 50 percent of the eligible expense for the drug, up to a maximum of \$150 per prescription dispensed, and 100 percent of excess cost.

NOTE: Repealed.

5.b.iv. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1835 (October 1999), amended LR 27:720, 721 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1887 (November 2001), LR 28:2344 (November 2002), LR 29:342 (March 2003), LR 32:1892 (October 2006), LR 32:2254 (December 2006), LR 36:

#### **Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows. A member who chooses to purchase a brand name prescription when there is a FDA approved generic equivalent available will pay the difference in cost between the generic and the brand, in addition to the applicable co-pay, unless evidence has been submitted to the prescription benefits manager establishing that the generic is medically contraindicated.

#### **Public Comments**

Interested persons may present their views, in writing, to Tommy D. Teague, Chief Executive Officer, Office of Group

Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, August 23, 2010.

Tommy D. Teague  
Chief Executive Officer

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: PPO Plan of Benefits—Prescription Drug Benefits: Brand/Generic**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated this benefit changes could save the health plans of the OBG (PPO, HMO and CD-HSA) approximately \$6,100,000-\$15,300,000 in FY 10/11, \$6,800,000-\$17,100,000 in FY 11/12, and \$3,800,000-\$11,500,000 in FY 12/13. The estimated savings are based upon a savings rate of approximately 5% for those plans that have a generic utilization rate below 65%. OGB's current generic utilization is currently in the low 60% range; therefore savings will decrease over time as generic fill rates rise. In addition there will be approximately \$3000 in printing costs associated with the implementation of this rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The revenues collections of state or local governmental units should not be affected for FY 2010/2011, but accumulated health plan expenditure savings as a result of this rule change could result in lower health insurance rate increases in future fiscal years, which would be shared between participating health plan members (individuals) and participating governmental agencies (employer).

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This benefit will impact any member that chooses to fill a prescription with a name brand drug where there is a generic equivalent for the same medication.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment should not be affected as a result of this rule change.

Tommy D. Teague  
Chief Executive Officer  
1007#102

Robert E. Hosse  
Staff Director  
Legislative Fiscal Officer

### **NOTICE OF INTENT**

#### **Office of the Governor Division of Administration Office of Group Benefits**

#### **PPO Plan of Benefits—Wellness Benefits (LAC 32:III.301 and 701)**

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits

authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of its PPO Plan Document relative to wellness benefits, to increase the benefits from \$200 to \$500. Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule to become effective upon promulgation.

**Title 32  
EMPLOYEE BENEFITS**

**Part III. Preferred Provider (PPO) Plan of Benefits**

**Chapter 3. Medical Benefits**

**§301. Eligible Expenses**

A. - 23.b.ii. ...

c. well adult care expenses, not subject to the annual deductible, but limited to a maximum benefit of \$500:

23.c.i.-iii. -35.c. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002), LR 29:339, 343 (March 2003), LR 30:1192 (June 2004), LR 31:441 (February 2005), LR 32:1888 (October 2006), LR 32:1898 (October 2006), LR 34:646 (April 2008), LR 34:646 (April 2008), effective May 1, 2008, LR 34:649 (April 2008), effective May 1, 2008, LR 34:2562 (December 2008), effective January 1, 2009, LR 36:

**Chapter 7. Schedule of Benefits—PPO**

**§701. Comprehensive Medical Benefits**

A. - C.2. ...

3. Well Adult (No deductible—limited to a maximum benefit of \$500)

Age 16-39—1 physical every 3 years	<sup>2</sup> See % payable below
Age 40-49—1 physical every 2 years	<sup>2</sup> See % payable below
Age 50 and over—1 physical every year	<sup>2</sup> See % payable below

<sup>1</sup>Participating providers are reimbursed at 100 percent of eligible expenses up to the maximum benefit; non-participating providers are reimbursed at 70 percent of eligible expenses up to the maximum benefit.

Services include screenings to detect illness or health risks during a physician office visit. The covered services are based on prevailing medical standards and may vary according to age and family history.

Specialized age appropriate wellness (not subject to deductible). For a complete list of benefits, see §301.A.24 of this Part.

D. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1843 (October 1999), amended LR 26:488 (March 2000), LR 27:719, 720, 722 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1887 (November 2001), LR 28:2345 (November 2002), LR 29:340, 342, 343 (March 2003), repromulgated LR 29:578 (April 2003), amended LR 30:1192 (June 2004), LR 32:1897 (October 2006), LR 33:644 (April 2007), LR 33:1122 (June 2007), LR 34:646 (April 2008), effective May 1, 2008, LR 36:

**Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, except as follows. The

proposed Rule will increase available wellness benefits from \$200 to \$500.

**Public Comments**

Interested persons may present their views, in writing, to Tommy D. Teague, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Monday, August 23, 2010.

Tommy D. Teague  
Chief Executive Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: PPO Plan of Benefits—Wellness Benefits**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is estimated this benefit change could cost the PPO health plan of OGB approximately \$363,000 - \$1,459,000 in FY 10/11, \$381,000 - \$1,532,000 in FY 11/12, and \$400,000 - \$1,609,000 in FY 12/13. The proposed benefit change would increase the wellness benefit for OGB PPO members from \$200 to \$500 annually. The cost estimates are based upon OGB data for those currently using the wellness benefit. In addition there will be approximately \$3,000 in printing costs associated with this rule change in FY 2010/2011.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The revenues collections of state or local governmental units should not be affected for FY 2010/2011, but accumulated health plan expenditure increases as a result of this rule change could result in higher rate increases in future fiscal years, which would be shared between participating PPO plan members (individuals) and participating governmental agencies (employers).

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed PPO benefit change will impact those participants of the PPO plan, which is approximately 43,000 members.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Competition and employment should not be affected as a result of this rule change.

Tommy D. Teague  
Chief Executive Officer  
1007#100

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Nursing**

Definition of Term—Other Causes  
(LAC 46:XLVII.3405)

The Louisiana State Board of Nursing proposes to amend LAC 46:XLVII.3405, Definition of Terms, *Other Causes*, in accordance with R.S. 37:918, R.S. 37:919, and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The proposed amendment to LAC 46:XLVII.3405 revises the current Rule to align with SB No. 282 which became Act 274 of the 2007 Legislature reporting of impaired

professionals. This proposal provides a mechanism to further clarify the complaint process.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered Nurses**

**Subpart 2. Registered Nurses**

**§3405. Definition of Terms**

A. ...

\*\*\*

*Other Causes*—includes, but is not limited to:

a. - m. ...

n. failing to report, through the proper channels, facts known regarding the incompetent, unethical, illegal practice or suspected impairment due to/from controlled or mood altering drugs; alcohol; or a mental or physical condition of any healthcare provider.

o. - x. ...

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), R.S. 37:921, and R.S. 37:1744-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of health and Hospitals, Board of Nursing, LR 19:1145 (September 1993), LR 21:271 (March 1995), LR 24:1293 (July 1998), LR 31:1585 (July 2005), LR 35:1535 (August 2009), LR 36:

**Family Impact Statement**

In compliance with R.S. 49:953 and 974, the following Family Impact Statement of the proposed amendments to rules is provided. There should be no adverse effect on the stability of the family; the authority and rights of parents regarding the education and supervision of their children; or the ability of the family or a local government to perform the function as contained in the proposed rule amendments.

**Public Comments**

Interested persons may submit written comments on the proposed rules until 5 p.m., August 15, 2010 to Barbara L. Morvant, Executive Director, 17373 Perkins Road, Baton Rouge, LA 70808.

Barbara L. Morvant, MN, RN  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Definition of Term—Other Causes**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated increase or decrease in expenditures or savings due to this proposed revision except for the cost of printing which is estimated at \$300.00 in FY 10-11.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule adds failure of registered nurses to properly report suspected impairment due to controlled or mood altering drugs, alcohol, mental condition, or physical condition as grounds for disciplinary proceedings against such nurses. Registered nurses who fail to report through proper

channels could face sanction by the Louisiana State Board of Nursing (LSBN) including fines, reprimands and up to termination of license.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed addition to LAC 46:LXVII.§3405 will have no effect on competition and employment.

Barbara Morvant  
Executive Director  
1007#015

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Wholesale Drug Distributors**

**Wholesale Drug Distribution—Exemptions  
(LAC 46:XCI.105)**

The Louisiana Board of Wholesale Drug Distributors proposes to amend LAC 46:XCI.105 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq. and R.S. 37:3467 et seq., of the Louisiana Board of Wholesale Drug Distributors Practice Act. These proposed rule amendments will support the board's ability to license entities and regulate the wholesale distribution of legend drugs and devices into and within the state of Louisiana in its effort to safeguard the life and health of its citizens and promote the public welfare. The proposed amendments to the Rule are set forth below.

**Title 46**

**PROFESSIONAL AND OCCUPATION STANDARDS**

**Part XCI. Wholesale Drug Distributors**

**Chapter 1. General Provisions**

**§105. Wholesale Drug Distribution—Exemptions**

A. Wholesale drug distribution does not include:

1. intra-company sales;
2. the sale, purchase or trade of a drug or device or an offer to sell, purchase, or trade a drug or device by a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;
3. the sale, purchase, or trade of a drug or device or an offer to sell, purchase, or trade a drug or device among hospitals or other health care entities that are under common ownership;
4. the sale, purchase, or trade of a drug or device or an offer to sell, purchase, or trade a drug or device for emergency medical reasons; for purposes of this Section, *emergency medical reasons* include transfers of prescription drugs or devices by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage that arises from delays in or interruptions of regular distribution schedules;
5. the dispensing of a drug or device pursuant to a prescription;
6. the distribution of drug samples by manufacturers' representatives or distributors' representatives;
7. the sale, purchase, or trade of blood and blood components intended for transfusion; or
8. the sale of legend drugs by retail pharmacies to licensed practitioners for office use where the annual dollar volume of legend drugs sold to licensed practitioners does

not exceed five percent of the dollar volume of that retail pharmacy's annual legend drug sales.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 35:1537 (August 2009), amended LR 36:321 (February 2010), LR 36:

### Family Impact Statement

The proposed Rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

### Public Comments

Interested parties may submit written comments to Kimberly B. Barbier, Executive Assistant, Louisiana Board of Wholesale Drug Distributors, 12046 Justice Avenue, Suite C, Baton Rouge, LA 70816. Comments will be accepted through the close of business on August 18, 2010.

### Public Hearing

If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedures Act, the hearing will be held on Wednesday, August 25, 2010, at 11:00 a.m. at the office of the Louisiana Board of Wholesale Drug Distributors, 12046 Justice Avenue, Suite C, Baton Rouge, LA.

John Liggio  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: LAC Wholesale Drug Distribution—Exemptions

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Estimated implementation costs to the state include those associated with publishing the rule amendment estimated at \$250 in fiscal year 2011. Licensees will be informed of this rule change via the Board's regular newsletter or other direct mailings, which result in minimal costs to the Board. Local governmental units will not incur any costs as a result to this rule.

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as there will not be any increase in fees resulting from the rule changes.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Current rule exempts the sale or transfer of legend drugs or legend devices among hospitals or other health care entities within a group purchasing organization from classification as wholesale drug distributors. The proposed rule will classify the sale or transfer of drugs or devices among hospitals or other health care entities within a group purchasing organization as wholesale drug distribution activities and will require selling or transferring entities to obtain a wholesale drug distributor license as issued by the Louisiana Board of Wholesale Drug Distributors. The Louisiana Board of Wholesale Drug Distributors reports that they have no knowledge of hospitals or other health care entities within a group purchasing organization making such sales or transfers in the past or currently. As such, there are no costs and/or economic benefits

to directly affected persons or non-governmental groups from the proposed rule change.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule change.

John Liggio  
Executive Director  
1007#016

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Bureau of Health Services Financing

#### Ambulatory Surgical Centers Reimbursement Rate Reduction (LAC 50:XI.7503)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XI.7503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed the April 20, 1977 Rule governing ambulatory surgical services and amended the provisions governing the reimbursement methodology for ambulatory surgical centers to reduce the reimbursement rates as a result of a budgetary shortfall in state fiscal year 2009. These provisions were promulgated in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 35, Number 9).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau determined that it was necessary to amend the provisions governing the reimbursement methodology for ambulatory surgical centers to further reduce the reimbursement rates paid for ambulatory surgical services (*Louisiana Register*, Volume 36, Number 2). The department subsequently determined that it was necessary to repeal the January 22, 2010 Emergency Rule in its entirety and amended the provisions governing the reimbursement methodology for ambulatory surgical centers to adjust the rate reduction (*Louisiana Register*, Volume 36, Number 2). This proposed Rule is being promulgated to continue the provisions of the February 5, 2010 Emergency Rule.

**Title 50**  
**PUBLIC HEALTH-MEDICAL ASSISTANCE**  
**Part XI. Clinic Services**  
**Subpart 11. Ambulatory Surgical Centers**  
**Chapter 75. Reimbursement**  
**§7503. Reimbursement Methodology**  
A. - C. ...

D. Effective for dates of service on or after February 5, 2010, the reimbursement for surgical services provided by an ambulatory surgical center shall be reduced by 5 percent of the rate in effect on February 4, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1889 (September 2009), amended LR 36:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

#### **Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, August 25, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Ambulatory Surgical Centers Reimbursement Rate Reduction**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in an estimated programmatic savings to the state of approximately \$63,892 for FY 10-11, \$81,244 for FY 11-12, and \$82,900 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately \$189,568 for FY 10-11, \$180,158 for FY 11-12, and \$186,344 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation

of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule is being promulgated to continue the provisions of the February 5, 2010 emergency rule which repealed the provisions of the January 22, 2010 emergency rule and amended the reimbursement methodology for ambulatory surgical centers to adjust the rate reduction (approximately 28,500 services per year). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$253,788 for FY 10-11, \$261,402 for FY 11-12 and \$269,244 for FY 12-13.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to ambulatory surgical centers. The reduction in payments may adversely impact the financial standing of ambulatory surgical centers and could possibly cause a reduction in employment opportunities.

Don Gregory  
Medicaid Director  
1007#076

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Bureau of Health Services Financing**

CommunityCARE Program  
Immunization Pay-for-Performance Initiative  
Payment Levels (LAC 50:I.2915)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:I.2915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the CommunityCARE Program in order to implement an immunization pay-for-performance supplemental payment based on the provider's participation

in the Louisiana Immunization Network for Kids Statewide and performance in achieving immunization benchmarks (*Louisiana Register*, Volume 33, Number 6).

As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule which amended the provisions governing the CommunityCARE Program to revise the payment levels for the pay-for-performance initiative (*Louisiana Register*, Volume 36, Number 2). The department subsequently amended the February 1, 2010 Emergency Rule to further revise the payment levels (*Louisiana Register*, Volume 36, Number 3). This proposed Rule is being promulgated to continue the provisions of the April 1, 2010 Emergency Rule.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part I. Administration**

#### **Subpart 3. Coordinated System of Care**

### **Chapter 29. CommunityCARE**

#### **§2915. Immunization Pay-for-Performance**

A. - C.3. ...

D. Effective February 1, 2010, supplemental payments shall be available to physicians when 50-74 percent of the recipients are up-to-date with the appropriate vaccine series by 24 months of age. The payment shall be \$0.25 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP.

E. Effective April 1, 2010, supplemental payments shall be available to physicians when 60-74 percent of the recipients are up-to-date with the appropriate vaccine series by 24 months of age. The payment shall be \$0.25 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1139 (June 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of the payment level changes.

#### **Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, August 25, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge,

LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: CommunityCARE Program Immunization Pay-for-Performance Initiative Payment Levels**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in an estimated programmatic savings to the state of approximately \$101,681 for FY 10-11, \$129,172 for FY 11-12, and \$131,806 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately \$301,497 for FY 10-11, \$286,439 for FY 11-12, and \$296,274 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule is being promulgated to continue the provisions of the April 1, 2010 emergency rule which amended the February 1, 2010 emergency rule which amended the provisions governing the CommunityCARE Program to revise the payment levels for the pay-for-performance initiative (approximately 250,000 units of service annually). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$403,506 for FY 10-11, \$415,611 for FY 11-12 and \$428,080 for FY 12-13.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to CommunityCARE providers. The reduction in payments may

adversely impact the financial standing of CommunityCARE providers and could possibly cause a reduction in employment opportunities

Don Gregory  
Medicaid Director  
1007#077

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment  
Dental Program Covered Services  
(LAC 50:XV.6903 and 6905)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.6903 and 6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Dental Program to include coverage of two additional dental procedures, increase the reimbursement fees for designated dental services and discontinued the lifetime service limits for certain endodontic procedures to provide clarification regarding covered services (*Louisiana Register*, Volume 35, Number 9). The department has now determined that it is necessary to amend the provisions governing the covered services and reimbursement methodology for the EPSDT Dental Program to include an additional dental procedure. This action is being taken to ensure that providers are using the appropriate dental procedure code when billing for prefabricated esthetic coated stainless steel crown-primary tooth procedures.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

#### Subpart 5. Early and Periodic Screening,

#### Diagnosis and Treatment

#### Chapter 69. Dental Services

#### §6903. Covered Services

A. - D. ...

E. Effective December 1, 2010, the prefabricated esthetic coated stainless steel crown-primary tooth dental procedure shall be included in the service package for coverage under the EPSDT Dental Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:175 (February 2003), amended LR 30:252 (February 2004), LR 31:667 (March 2005), LR 33:1138 (June 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1889 (September 2009), amended LR 36:

#### §6905. Reimbursement

A. - C. ...

D. Effective for dates of service on or after January 22, 2010, the reimbursement fees for EPSDT dental services shall be reduced to the following percentages of the 2008 National Dental Advisory Service Comprehensive Fee Report 70th percentile, unless otherwise stated in this Chapter:

1. 73 percent for diagnostic oral evaluation services;
2. 70 percent for the following periodic diagnostic and preventive services:
  - a. radiographs—periapical, first film;
  - b. radiograph—periapical, each additional film;
  - c. radiograph—panoramic film;
  - d. prophylaxis—adult and child;
  - e. topical application of fluoride, 0-15 years of age (prophylaxis not included); and
  - f. topical fluoride varnish, therapeutic application for moderate to high caries risk patients (under 6 years of age); and
3. 65 percent for the remainder of the dental services.

E. Effective for dates of service on or after December 1, 2010, the reimbursement fee for the prefabricated esthetic coated stainless steel crown-primary tooth procedure shall be 63 percent of the 2008 National Dental Advisory Service Comprehensive Fee Report 70<sup>th</sup> percentile rate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1138 (June 2007), amended LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1890 (September 2009), amended LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

#### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, August 25, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Early and Periodic Screening, Diagnosis  
and Treatment Dental Program Covered Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 10-11. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 10-11. It is anticipated that \$164 will be collected in FY 10-11 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This rule proposes to amend the provisions governing the covered services and reimbursement methodology for the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Dental Program to include an additional dental procedure. The procedure is currently being paid under an inappropriate dental code. This action will ensure that providers are billing the appropriate dental procedure code. The new dental procedure will be reimbursed at the same rate as the inappropriate procedure code; therefore, it is anticipated that implementation of this proposed rule will be cost neutral for directly affected persons or non-governmental groups in FY 10-11, FY 11-12 and FY 12-13.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This rule has no known effect on competition and employment.

Don Gregory  
Medicaid Director  
1007#078

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

**Facility Need Review Exception Criteria for Downsizing  
Enrolled Beds (LAC 48:I.12507)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.12507 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the facility need review process to include licensed adult day health care providers (*Louisiana Register*,

Volume 36, Number 2). The department now proposes to amend the provisions governing the facility need review process for intermediate care facilities for persons with developmental disabilities to clarify the provisions governing the exception criteria for the downsizing of the enrolled bed capacity of large residential facilities.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part 1. General Administration**

**Subpart 5. Health Planning**

**Chapter 125. Facility Need Review**

**Subchapter B. Determination of Bed, Unit, Facility or  
Agency Need**

**§12507. Intermediate Care Facilities for Persons with  
Developmental Disabilities**

A. - N.2. ...

3. When the department intends to downsize the enrolled bed capacity of a state-owned facility with 16 or more beds in order to develop one or more group or community homes, and the approved beds will be owned by the state, a cooperative endeavor agreement (CEA) will be issued.

a. The CEA will be issued and beds shall be made available in accordance with the methods described in this Section;

N.4. - O.1. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2116.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), amended LR 28:2190 (October 2002), LR 30:1023 (May 2004), amended LR 32:845 (May 2006), amended LR 34:2613 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

**Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, August 25, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Facility Need Review Exception  
Criteria for Downsizing Enrolled Beds**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 10-11. It is anticipated that \$246 (\$246 SGF) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule proposes to amend the provisions governing the facility need review process for intermediate care facilities for persons with developmental disabilities (ICFs/DD) to clarify the provisions governing the exception criteria for the downsizing of the enrolled bed capacity of large residential facilities in order to bring these provisions into compliance with current practices. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 10-11, FY 11-12 and FY 12-13.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Don Gregory  
Medicaid Director  
1007#079

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

**Family Planning Waiver  
Reimbursement Rate Reduction  
(LAC 50:XXII.2701)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXII.2701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted

provisions to implement a family planning research and demonstration project under the authority of a Section 1115 waiver (*Louisiana Register*, Volume 32, Number 8). This waiver provides family planning services to women from age 19 through 44 years old with income at or below 200 percent of the federal poverty level.

As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule which reduced the reimbursement rates paid for family planning waiver services (*Louisiana Register*, Volume 36, Number 2). This proposed Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXII. 1115 Demonstration Waivers**

**Subpart 3. Family Planning Waiver**

**Chapter 27. Reimbursement**

**§2701. Reimbursement Methodology**

A. ...

B. Effective for dates of service on or after January 22, 2010, the reimbursement rates for services provided in the Family Planning Waiver shall be reduced by 5 percent of the rates in effect on January 21, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability or autonomy as described in R.S. 49:972 in the event that provider participation in the Family Planning Waiver Program is diminished as a result of reduced reimbursement rates.

**Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, August 25, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Family Planning Waiver  
Reimbursement Rate Reduction**

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Federally Qualified Health Centers  
Service Limit Reduction (LAC 50:XI.10503)

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$158,952 for FY 10-11, \$201,809 for FY 11-12 and \$205,925 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$471,131 for FY 10-11, \$447,514 for FY 11-12 and \$462,878 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This proposed rule continues the provisions of the January 22, 2010 emergency rule which amended the reimbursement methodology for the Family Planning Waiver to reduce the reimbursement rates (approximately 68,528 recipients). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Family Planning Waiver Program by approximately \$630,411 for FY 10-11, \$649,323 for FY 11-12 and \$668,803 for FY 12-13.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation may have a negative effect on employment as it will reduce the payments made to providers of Family Planning Waiver services. The reduction in payments may adversely impact the financial standing of waiver service providers and could possibly cause a reduction in employment opportunities.

Don Gregory  
Medicaid Director  
1007#080

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XI.10503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing established provisions governing provider enrollment, and clarified the provisions governing services and the reimbursement methodology for federally qualified health centers (FQHCs)(*Louisiana Register*, Volume 32, Number 10).

As a result of a budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which reduced the reimbursement rates paid for dental encounters and reduced the service limits for medically necessary services rendered by federally qualified health centers (*Louisiana Register*, Volume 36, Number 2). The department determined that it was necessary to amend the provisions of the January 22, 2010 Emergency Rule to repeal the provisions governing the rate reduction for dental encounters (*Louisiana Register*, Volume 36, Number 4). This proposed Rule is being promulgated to continue the provisions of the April 20, 2010 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XI. Clinic Services**

**Subpart 13. Federally Qualified Health Centers**

**Chapter 105. Services**

**§10503. Service Limits**

A. Federally qualified health center visits (encounters) are limited to 12 visits per year for medically necessary services rendered to Medicaid recipients who are 21 years of age or older. Visits for Medicaid recipients who are under 21 years of age and for prenatal and postpartum care are excluded from the service limitation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 by reducing the number of visits allowed for medically necessary services.

#### **Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, August 25, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Federally Qualified Health Centers Service Limit Reduction**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$2,405 for FY 10-11, \$3,259 for FY 11-12 and \$3,325 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$7,446 for FY 10-11, \$7,226 for FY 11-12 and \$7,474 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48

percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule continues the provisions of the April 20, 2010 emergency rule which amended the provisions of the January 22, 2010 emergency rule governing federally qualified health centers (FQHCs) to reduce the service limits for medically necessary services (approximately 400 recipients). It is anticipated that implementation of this proposed rule will reduce program expenditures for federally qualified health centers by approximately \$10,179 for FY 10-11, \$10,485 for FY 11-12 and \$10,799 for FY 12-13.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made to federally qualified health centers due to the reduction in the service limit. The reduction in services may adversely impact the financial standing of FQHCs and could possibly cause a reduction in employment opportunities.

Don Gregory  
Medicaid Director  
1007#081

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health and Hospitals Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
Children's Choice Reimbursement Rate Reduction  
(LAC 50:XXI.12101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XXI.12101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for the Children's Choice Waiver in order to

reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 2). The department amended the provisions of the January 22, 2010 Emergency Rule to revise the formatting as a result of the publication of the February 20, 2010 final Rule (*Louisiana Register*, Volume 36, Number 5). This proposed Rule is being promulgated to continue the provisions of the May 20, 2010 Emergency Rule.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

## **Part XXI. Home and Community-Based Services**

### **Waivers**

#### **Subpart 9. Children's Choice**

### **Chapter 121. Reimbursement**

#### **§12101. Reimbursement Methodology**

A. - B.4.j.iv. ...

C. Effective for dates of service on or after January 22, 2010, the reimbursement rates for Children's Choice Waiver services shall be reduced by 4.75 percent of the rates on file as of January 21, 2010.

1. Support coordination services and environmental accessibility adaptations shall be excluded from this rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), amended LR 36:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

#### **Public Comments**

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, August 25, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Home and Community-Based Services Waivers—Children's Choice Reimbursement Rate Reduction**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated programmatic savings to the state of approximately \$143,705 for FY 10-11, \$182,472 for FY 11-12 and \$186,192 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$425,970 for FY 10-11, \$404,631 for FY 11-12 and \$418,524 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule continues the provisions of the May 20, 2010 emergency rule which amended the January 22, 2010 emergency rule which amended the provisions governing the Children's Choice Waiver to reduce the reimbursement rates (approximately 824 recipients). It is anticipated that implementation of this proposed rule will reduce program expenditures for the Children's Choice Waiver by approximately \$570,003 for FY 10-11, \$587,103 for FY 11-12 and \$604,716 for FY 12-13.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a negative effect on employment as it will reduce the reimbursement rates for Children's Choice Waiver services. The reduction in reimbursement may adversely impact the financial standing of waiver service providers and could possibly cause a reduction in employment opportunities.

Don Gregory  
Medicaid Director  
1007#082

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Bureau of Health Services Financing and

### Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers  
Supports Waiver Reimbursement Rate Reduction  
(LAC 50:XXI.6101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XXI.6101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amended the provisions governing the reimbursement methodology for the Supports Waiver to implement a wage enhancement payment to providers for direct support professionals and amended the service provisions to include support coordination as a covered service (*Louisiana Register*, Volume 34, Number 4).

As a result of a budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for Supports Waiver services to reduce the reimbursement rates (*Louisiana Register*, Volume 36, Number 2). This proposed Rule is being promulgated to continue the provisions of the January 22, 2010 Emergency Rule.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXI. Home and Community Based Services

#### Waivers

#### Subpart 5. Supports Waiver

#### Chapter 61. Reimbursement Methodology

#### §6101. Reimbursement Methodology

A. - J. ...

K. Effective for dates of service on or after January 22, 2010, the reimbursement rates for Supports Waiver services shall be reduced by 5.35 percent of the rates on file as of January 21, 2010.

1. Support coordination services and personal emergency response system (PERS) services shall be excluded from the rate reduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens

with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

#### Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. He is responsible for responding to inquiries regarding this proposed Rule.

#### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, August 25, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Home and Community-Based Services Waivers—Supports Waiver Reimbursement Rate Reduction

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated programmatic savings to the state of approximately \$211,344 for FY 10-11, \$268,260 for FY 11-12, and \$273,730 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately \$626,317 for FY 10-11, \$594,869 for FY 11-12, and \$615,293 for FY 12-13. It is anticipated that \$164 will be expended in FY

10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule is being promulgated to continue the provisions of the January 22, 2010 emergency rule which amended the provisions governing the reimbursement methodology for Supports Waiver services to reduce the reimbursement rates (approximately 173,000 units of service). It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$837,989 for FY 10-11, \$863,129 for FY 11-12 and \$889,023 for FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to providers of Supports Waiver services. The reduction in payments may adversely impact the financial standing of these providers and could possibly cause a reduction in employment opportunities.

Don Gregory  
Medicaid Director  
1007#083

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Home Health Program  
Nursing and Home Health Aide Services  
Reimbursement Rate Reduction  
(LAC 50:XIII.701)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 10 of the 2009 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, and other measures as permitted under federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed all prior Rules governing the reimbursement of home health

services and adopted provisions which established a prospective reimbursement methodology for home health services and required prior authorization for medically necessary supplies used in the delivery of a home health service (*Louisiana Register*, Volume 22, Number 3). Due to a budgetary shortfall, the reimbursement methodology for skilled nursing services was amended to establish a separate reimbursement rate when the nursing service is performed by a licensed practical nurse (*Louisiana Register*, Volume 27, Number 2).

As a result of a budgetary shortfall in state fiscal year 2010, the bureau promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for home health services to reduce the reimbursement rates paid for intermittent nursing and home health aide services (*Louisiana Register*, Volume 36, Number 2). The department repealed the January 22, 2010 Emergency Rule in its entirety and amended the provisions governing the reimbursement methodology for home health services to adjust the rate reduction (*Louisiana Register*, Volume 36, Number 2). This proposed Rule is being promulgated to continue the provisions of the February 9, 2010 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XIII. Home Health**

**Subpart 1. Home Health Services**

**Chapter 7. Reimbursement Methodology**

**§701. Nursing and Home Health Aide Services**

A. - A.4. ...

B. Reimbursement for intermittent nursing services and home health aide services is a prospective maximum rate per visit.

1. A separate reimbursement rate is established for nursing services at 80 percent of the rate in effect on January 31, 2000 when the nursing services are performed by a licensed practical nurse (LPN).

2. The rate in effect on January 31, 2000 continues to be paid when the nursing service is performed by a registered nurse (RN).

3. Effective for dates of service on or after February 9, 2010, the reimbursement rates for intermittent nursing services (performed by either a RN or LPN) and home health aide services shall be reduced by 5 percent of the rates in effect on February 8, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

### Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, August 25, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Home Health Program Nursing and Home Health Aide Services Reimbursement Rate Reduction

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated programmatic savings to the state of approximately \$124,586 for FY 10-11, \$158,223 for FY 11-12, and \$161,449 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will decrease federal revenue collections by approximately \$369,340 for FY 10-11, \$350,859 for FY 11-12, and \$362,905 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule is being promulgated to continue the provisions of the February 9, 2010 emergency rule which repealed the provisions of the January 22, 2010 emergency rule which amended the provisions governing the reimbursement methodology for home health services to reduce the reimbursement rates paid for intermittent nursing and home health aide services (approximately 155,000 units of service). It

is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$494,254 for FY 10-11, \$509,082 for FY 11-12 and \$524,354 for FY 12-13.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the payments made to home health providers. The reduction in payments may adversely impact the financial standing of home health providers and could possibly cause a reduction in employment opportunities.

Don Gregory  
Medicaid Director  
1007#084

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program  
Anesthesia Services  
Reimbursement Methodology  
(LAC 50:IX.15133)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:IX.15133 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the reimbursement methodology for anesthesia services to reduce the reimbursement rates paid to physicians (*Louisiana Register*, Volume 35, Number 8). The final Rule was published June 20, 2010 (*Louisiana Register*, Volume 36, Number 6). The department promulgated an Emergency Rule which amended the provisions governing anesthesia services in order to revise the formula-based reimbursement methodology for services rendered by physicians and certified registered nurse anesthetists (CRNAs). In addition, the provisions governing anesthesia services were repromulgated, in their entirety, in Subchapter D of LAC 50:IX.Chapter 151 in order to reorganize these provisions in a clear and concise manner in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 36, Number 2). The department subsequently amended the provisions of the January 22, 2010 Emergency Rule to clarify the language governing formula-based reimbursement (*Louisiana Register*, Volume 36, Number 5). This proposed Rule is being promulgated to continue the provisions of the May 20, 2010 Emergency Rule.

#### Title 50

#### PUBLIC HEALTH-MEDICAL ASSISTANCE

#### Part IX. Professional Services Program

#### Subpart 15. Reimbursement

#### Chapter 151. Reimbursement Methodology

#### Subchapter D. Anesthesia Services

#### §15133. Formula-Based Reimbursement

A. ...

B. Effective for dates of service on or after January 22, 2010, the reimbursement for formula-based anesthesia services rendered by a physician shall be:

1. 75 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients ages 16 and older; and

2. 90 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients under the age of 16.

C. Effective for dates of service on or after January 22, 2010, the reimbursement for formula-based anesthesia services rendered by a CRNA shall be:

1. 75 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients ages 16 and older; and

2. 90 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients under the age of 16.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

#### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring sufficient provider participation in the Medicaid Program and continued access to anesthesia services.

#### Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

#### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, August 25, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE: Professional Services**

**Program—Anesthesia Services  
Reimbursement Methodology**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of approximately \$1,071,350 for FY 10-11, \$1,358,606 for FY 11-12 and \$1,386,308 for FY 12-13. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above

are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$3,172,979 for FY 10-11, \$3,012,715 for FY 11-12 and \$3,116,153 for FY 12-13. It is anticipated that \$164 will be expended in FY 10-11 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 74.76 percent. The enhanced rate of 81.48 percent for the first six months of the fiscal year is authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. To the extent that additional federal match would be available after December 2010 (end of the ARRA eligibility); state general fund match could be reduced in the current fiscal year.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the May 20, 2010 emergency rule which amended the January 22, 2010 emergency rule which amended the provisions governing anesthesia services in order to revise the formula-based reimbursement methodology for services rendered by physicians and certified registered nurse anesthetists (CRNAs). It is anticipated that implementation of this proposed rule will increase program expenditures in the Professional Services Program by approximately \$4,244,001 for FY 10-11, \$4,371,321 for FY 11-12 and \$4,502,461 for FY 12-13.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a positive effect on employment as it will increase the payments for services rendered by physicians and CRNAs. The increase in payments may improve the financial standing of these providers and could possibly cause an increase in employment opportunities.

Don Gregory  
Medicaid Director  
1007#085

Robert E. Hosse  
Staff Director  
Legislative Fiscal Officer

#### NOTICE OF INTENT

**Department of Health and Hospitals  
Office of Public Health**

Sewage Disposal Program  
(LAC 51:XIII.101, 503, 504 and 511)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), intends to amend Part XIII (Sewage Disposal) of the Louisiana State Sanitary Code (LAC 51). The major impetus behind this

proposed rule is to clarify several design standards for sewerage systems.

**Title 51  
PUBLIC HEALTH—SANITARY CODE  
Part XIII. Sewage Disposal**

**Chapter 1. General**

**§101. Definitions [formerly paragraph 13:001]**

A. As used in this Part, the terms defined in this Chapter supplement any definitions which may be set forth in law and shall have the following meanings and/or applications, unless the context or use thereof clearly indicates otherwise, or more explicit definitions and/or applications are referenced. Terms not defined or referenced herein shall have the meanings as defined in the other Parts of the sanitary code of the state of Louisiana. In any instance where a term defined herein is also defined in one or more other Parts of this Code, the definition contained in this Part shall be given preference as it pertains to sewage disposal.

\* \* \*

*Biochemical Oxygen Demand 5-Day (BOD<sub>5</sub>)*—the amount of oxygen required to stabilize biodegradable organic matter under aerobic conditions within a five day period in accordance with the *Standard Methods for the Examination of Water and Wastewater*, 21<sup>st</sup> Edition.

BOD<sub>5</sub>—see *Biochemical Oxygen Demand 5-Day*.

\* \* \*

*Design Average BOD<sub>5</sub>*—the average of the organic load received for a continuous 12 month period for the design year expressed as weight per day. However, the *design average BOD<sub>5</sub>* for facilities having critical seasonal high loading periods (e.g., recreational areas, campuses, industrial facilities) shall be based on the daily average BOD<sub>5</sub> during the seasonal period.

\* \* \*

*Food:microorganism Ratio (F/M)*—in the activated sludge process, the loading rate expressed as pounds (kilograms) of BOD<sub>5</sub> per pound (kilogram) of *mixed liquor volatile suspended solids* per day.

F/M—see *Food:microorganism Ratio*.

\* \* \*

*Mixed Liquor*—a mixture of raw or settled wastewater and activated sludge contained in an aeration tank in the activated sludge process.

*Mixed Liquor Suspended Solids (MLSS)*—the concentration of suspended solids in activated sludge *mixed liquor*, expressed in milligrams per liter.

*Mixed Liquor Volatile Suspended Solids (MLVSS)*—that fraction of the suspended solids in activated sludge *mixed liquor* that can be driven off by combustion at 550°C.

MLSS—see *Mixed Liquor Suspended Solids*.

MLVSS—see *Mixed Liquor Volatile Suspended Solids*.

\* \* \*

*Secondary Treatment Standard*—a sewage effluent water quality standard which prescribes a maximum 30-day average concentration of BOD<sub>5</sub> of 30 milligrams per liter (mg/l), and a maximum daily concentration of BOD<sub>5</sub> of 45 mg/l. The 30-day average concentration is an arithmetic mean of the values for all effluent samples collected in the sampling period. The analyses to be performed for the purpose of determining compliance with these effluent

limitations and standards shall be in accordance with the 21<sup>st</sup> edition of the "Standard Methods for the Examination of Water and Wastewater," available from the American Public Health Association 1015 Eighteenth Street NW, Washington, D.C. 20036, except where otherwise specified.

\* \* \*

*Ten-State Standards—the Recommended Standards for Wastewater Facilities* (2004 Edition)\* promulgated by the Great Lakes—Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers and any modifications and additions to these Standards which the state health officer may establish in this Part.

\*Note: Published by: Health Research, Inc., Health Education Services Division, P.O. Box 7126, Albany, New York 12224 (Internet URL address: "http://www.hes.org/")

\* \* \*

AUTHORITY NOTE: The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions found in Chapter 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1343 (June 2002), amended LR 36:

**Chapter 5. Community Sewerage Systems [formerly Chapter 13 Subpart C]**

**§503. Plans [formerly paragraph 13:007]**

A. Detailed plans and specifications for the construction or modification of a community sewerage system for which a permit is requested shall be submitted by the person who is the owner, his legal agent or who has responsible charge of the facilities. Except as otherwise specified in this Part, the review and approval of plans and specifications submitted for issuance of a permit will be made in accordance with the design standards set forth in the "Ten-State Standards." Proposals which deviate significantly from the standards and other requirements set forth in this Part must be submitted to the state health officer with supporting documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1344 (June, 2002), amended LR 36:

**§504. Design**

A. Unless equipped with grinders, pumps handling raw wastewater must be capable of passing spheres of at least 2.5 inches in diameter.

1. Pumps used to transfer wastewater to, from, within, or between equalization basins shall meet the requirements of Subsection A of this Section.

B. The permissible aeration tank capacity and organic loading for the treatment processes given below shall be as follows:

Process	*Aeration Tank Organic Loading lbs BOD <sub>5</sub> /d/1000 ft <sup>3</sup> [kgs BOD <sub>5</sub> / (m <sup>3</sup> ·d)]	F/M Ratio lbs BOD <sub>5</sub> /d/lb MLVSS [kgs BOD <sub>5</sub> / (kg MLVSS·d)]	MLSS** mg/L
Extended Aeration Single Stage Nitrification	12.5 [0.20]	0.05-0.1	3000-5000

\* Volumetric loadings are based on the organic load influent to the aeration tank at plant design average BOD<sub>5</sub>.

\*\* MLSS values are dependent upon the surface area provided for sedimentation and the rate of sludge return as well as the aeration process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 36:

**§511. General Requirements [formerly paragraph 13:011-1]**

A. - B. ...

1. In subdivisions comprised of less than 50 lots, when the developer submits a comprehensive drainage plan as well as a proposal for restrictive covenants which detail requirements for perpetual maintenance of drainage. This requirement shall apply for all new subdivisions and developments.

B.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6), R.S. 40:5(9)(20), and R.S. 40:1154(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1345 (June, 2002), amended LR 28:1591 (July 2002), LR36:

**Family Impact Statement**

1. The effect on the stability of the family. No effect on the stability of the family is anticipated as a result of this proposed rulemaking.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. No effect on the authority and rights of parents regarding the education and supervision of their children is anticipated as a result of this proposed rulemaking.

3. The effect on the functioning of the family. No effect on the functioning of the family is anticipated as a result of this proposed rulemaking.

4. The effect on the family earnings and family budget. No significant effect on the family earnings and family budget is anticipated as a result of this proposed rulemaking.

5. The effect on the behavior and personal responsibility of children. No effect on the behavior and personal responsibility of children is anticipated as a result of this proposed rulemaking.

6. The ability of the family or local government to perform the function as contained in the proposed rule. The family or local governments have no function to perform under this rule; therefore, the family or local government's ability to perform the function under this rule is a non-issue.

**Public Hearing**

DHH-OPH will conduct a public hearing at 10 a.m. on Tuesday, August 24, 2010, in Room 173 of the Bienville Building, 628 North 4<sup>th</sup> Street, Baton Rouge, LA. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between N. 6<sup>th</sup> and N. 5<sup>th</sup> / North and Main Sts. (catercorner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

**Public Comments**

In addition, all interested persons are invited to submit written comments on the proposed rule. Such comments must be received no later than Friday, August 27, 2010 at COB, 4:30 p.m., and should be addressed to Jake Causey, Engineering Services Section, Center for Environmental

Health Services, Office of Public Health, CEHS Mail Bin # 3, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7303. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. 4<sup>th</sup> Street - Room 125, Baton Rouge, LA 70802.

Alan Levine  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Sewage Disposal Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule amends Part XIII of the Louisiana State Sanitary Code (LAC 51) Section 101, 503, 511 and adds Section 504.

The first proposed rule change in Section 101, proposes to add definitions to clarify design standards for sewage systems.

The second proposed rule change in Section 503 adds language to clarify specifications for construction or modification of community sewerage systems.

The third proposed rule change adds Section 504 to provide design specifications for pumps handling wastewater.

The fourth proposed change in Section 511 lowers the number of lots for which a subdivision developer will be allowed to use individual sewage technology. The proposed rule will require subdivisions of 50 lots or more to use a community sewerage system. In current rule, 125 lots or more are required to use a community sewerage system and subdivisions of less than 125 lots are allowed to use individual sewage technology if the lots meet certain specified criteria.

The proposed changes will result in an estimated state cost of \$623 to publish the notice of intent and the final rule in the *Louisiana Register*. This is a one-time cost that is included in the agency's budget. This proposed rule will not result in any costs to local government units. However, it could result in a savings to local government units as they should receive fewer sewer-related complaints which will reduce onsite inspection activities. The amount of savings cannot be determined.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no effects on revenue collections of state or local governmental units anticipated as a result of promulgation of this regulation.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This rule will directly affect all persons or non-governmental groups which own sewage treatment facilities. Any persons who may have, in the past, designed a sewage treatment facility which did not meet DHH-OPH's existing policy for pumps handling raw wastewater (except grinder pumps) being able to pass spheres of 2.5 inches in diameter would now have to comply when there is new construction, substantial renovation or when a serious health threat is determined by the state health officer. This rule change will likely result in additional costs to subdivision developers who will have to use a larger pump as a result of the 2.5 inches in diameter requirement; however, this cost cannot be determined as it will depend on the type, quality and number of pumps used.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

No effect is anticipated on competition and employment.

Clayton Williams  
Assistant Secretary  
1007#093

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Corrections Services**

**Disciplinary Rules and Procedures for Adult Offenders  
(LAC 22:I.363)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 363 Disciplinary Rules.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part I. Corrections**

**Chapter 3. Adult Services**

**Subchapter B. Disciplinary Rules and Procedures for  
Adult Offenders**

**§363. Disciplinary Rules**

A. - X.10 ...

11. the communication of statements or information known to be malicious, frivolous, false, and/or inflammatory, the purpose of which is reasonably intended to harm, embarrass, or intimidate an employee, visitor, guest, offender or their families; (This rule shall not apply to information and/or statements communicated for the express purpose of obtaining legal assistance.)

12. - 23. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995). Cassels v. Stalder, 342 F. Supp. 2d 555.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:419 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 31:1099 (May 2005), LR 34:2201 (October 2008), LR 36:

**Family Impact Statement**

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Public Comments**

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on August 8, 2010.

James M. Le Blanc  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Disciplinary Rules and  
Procedures for Adult Offenders**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local government expenditures. This is a technical adjustment to an existing regulation regarding communication of statements or information.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on the Revenue Collections of state or local governmental units as a result of this technical adjustment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

There is no estimated effect on competition and employment as a result of this technical adjustment.

Thomas C. Bickham, III  
Undersecretary  
1007#104

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

**Video Draw Poker (LAC 42:XI.2407 and 2424)**

The Louisiana Gaming Control Board hereby gives notice that it intends to promulgate LAC 42:XI.2424 and amend 42:XI.2407.D.17.

**Title 42**

**LOUISIANA GAMING**

**Part XI. Video Poker**

**Chapter 24. Video Draw Poker**

**§2407. Operation of Video Draw Poker Devices**

A. - D.16. ...

17. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:85 (January 1999), LR 27:205 (February 2001), LR 30:267 (February 2004), repromulgated LR 30:441 (March 2004), amended LR 33:857 (May 2007), LR 36:

**§2424. Enforcement Actions of the Board**

A. Pursuant to R.S. 27:308, et seq., in lieu of other Administrative Action, the division may impose a civil penalty as provided for in the penalty schedule contained in Subsection B.

B. Penalty Schedule

Regulation Number	Violation Description	1st	2nd	3rd
<b>Application And License</b>				
2405 A 15	Improperly Notarized Documents	1000	2000	Admin Action
2405 B 2	Failure To Conspicuously Display License	100	200	300
2504 B 3c	Failure To Renew Gaming License 45 Days Prior To Expiration Of License	250	500	1000
2405 B 7	Failure To Attend Required Hearings, Meetings, Etc.	500	1000	Admin Action
<b>Video Gaming Devices</b>				
2407 A 1	No Des Rep/Failure To Monitor VGD/Gaming Area	250	500	1000
2407 A 3	Allowing Intoxicated Persons To Play Video Devices	250	500	1000
2407 A 4	Failure Of Licensee To Supervise Employees To Ensure Compliance With Regulations	100	200	300
2407 A 5	Failure To Pay Valid Ticket Voucher On Demand	500	750	1000
2407 A 6	Proper Placement Of Devices	100	200	300
2407 A 7	Licensee Shall Advise The Division Of Any Device Malfunction That Has Not Been Rectified By The Device Owner Within 24 Hours	250	500	1000
2407 A 9	Keys Shall Be Secure And Available To The Division	100	200	300
2407 A 10	Loss Of Access Of Device Telephone Line	250	500	1000
2407 A 12	Licensee Shall Post Signs At Entrances To Gaming Area/Restricting Play/3 Inch Lettering	250	500	1000
2407 A 13	Current Copy Of Administrative Rules Not Available	100	200	300
2407 A 14	No Hotline Number/Compulsive Gambling Toll Free Number Signs	250	500	1000
2407 B 2	Video Draw Poker Employee Permit	25	50	75
2407 B 8	Designated Reps Shall Locate Records and Documents	250	500	1000
2407 C 1	Employee Shall Be Available To Redeem Valid Tickets	250	500	1000
2407 C 1a	Ticket Vouchers Shall Be Redeemed For Cash Only	250	500	1000
2407 C 1e	The Phrase "Any Malfunction Voids All Plays And Pays" Shall Be Displayed On The Face Of Devices	100	200	300
2407 C 1f	Failure To Make Timely Payments As Required	500	1000	Admin Action
2407 D	Advertising Violation	500	750	1000
<b>Revenues</b>				
2409 C 2d	Insufficient Funds Available For Electronic Transfer -- Fine Plus Interest As Per Rule	500	1000	Admin Action
2409 C 3	A Device Owner Who Has A Non-Sufficient Fund Return W/I The Past 3 Years Shall Be Required To Maintain A Minimum Balance In The Sweep Account Or Secure With A Line Of Credit Or Bond	500	1000	Admin Action
2409 E 2	Failure To Have All Records Requested Readily Available For Audit	500	1000	Admin Action
<b>Regulatory, Communication, And Reporting Responsibilities</b>				
2411 A 6	Failure To Provide Semi-Annual, Quarterly, Or Monthly Report Requested By Date Required	500	1000	Admin Action
2411 A 7	Failure To Retain All Records For A Period Of Three Years (Manufacturers-Five Years)	500	1000	Admin Action
2411 A 9	Failure To Maintain Required Records, Submit All Reports, And Keep The Division Informed In Writing Of Changes	500	1000	Admin Action
2411 A 10a	Failure To Keep And Maintain Bank Account Documents	500	1000	Admin Action
2411 A 10b	Failure To Keep And Maintain Business Records	500	1000	Admin Action
2411 A 12	All Licensed Manufacturers And Distributors Shall Maintain A Current Record Of Devices Received, Sold, And In Inventory	500	1000	Admin Action
2411 A 14	Failure To Provide A Current List Of Authorized Service Personnel	500	1000	Admin Action
2411 B 1	Failure To Provide A Semi-Annual Report Requested	500	1000	Admin Action
2411 D 3	Failure Of Device Owner To Maintain All Audit Tapes For A Period Of 3 Years	250	500	1000
2411 D 6	Failure To Notify Division Technical Staff Prior To Removal Of Devices From Service For Less Than 72 Hours - Per Device	250	500	1000
2411 D7	Devices Disabled From The Central Computer For More Than 72 Hours Shall Be Transferred To The Device Owner's Warehouse Or Service Entity And The Division Notified With The Proper Paperwork Within Five Business Days - Per Device	250	500	1000
2411 E1	Failure Of Licensed Establishment To Provide Quarterly Report Requested By Division	500	1000	Admin Action
2411 E 3	Failure Of Licensed Truck Stops To Provide Monthly Fuel Sales Reports	500	1000	Admin Action

Regulation Number	Violation Description	1st	2nd	3rd
2411 F 1	Failure Of Licensed Service Entity To Maintain Required Records	250	500	Admin Action
2411 F 2	Failure Of Licensed Service Entity To Have A Certified Technician And Adequate Facilities Approved By The Division	250	500	Admin Action
2411 G 3	Failure To Submit Device Forms Required By The Division In A Timely Manner	250	500	1000
2411 H 2	Failure To Provide Copies Of Written Contracts Pertaining To The Operation Of Devices Within 10 Business Days Of Making Such Contract	500	1000	Admin Action
<b>Devices</b>				
2413 A 1 E	Unapproved Information On Device Screen/Housing	100	200	300
2413 A 1 E ii	The Phrase "No Persons Under The Age Of 21 Allowed To Play" Shall Be Conspicuously Displayed On The Face Of All Devices	100	200	300
2413 A 1 L	Device Must Have An Approved And Functioning Security System For Temporarily Disabling Device And Alerting The Central System When The Device Is Opened	250	500	1000
2413 E 1	Only Certified Technicians May Access The Interior Of An Enrolled And Enabled Device	250	500	1000
2413 E 2	All Device Owners Shall Maintain A Current, Written Maintenance Log For Each Device Operating Within A Licensed Establishment On A Division Approved Form	100	200	300
2413 E 3	A Division Approved Ram Clear Chip And Procedure Shall Be Used When A Device's Memory Is To Be Cleared	500	1000	Admin Action
2413 E 4	Prior Approval Must Be Obtained Before A Software Program Is Changed In Any Device	500	1000	Admin Action
2413 E 7	The Division Shall Be Notified Before A Device Is Disconnected From Central Computer	500	1000	Admin Action
2413 F 1	Failure To Provide Information Of Shipment Of Devices And Obtaining Division Approval	500	750	1000
2413 F 2	Failure To Provide Division With The Make, Model, Serial Number And An Inventory Of The Devices Being Shipped	500	750	1000
2413 F 4	Devices Shall Be Shipped Within Ten Business Days Of The Notification And Approval	500	750	1000
2413 G 1	Failure To Request Local Law Enforcement To Investigate Damage Or Theft Of Any Device	250	500	1000
2413 G 2	Failure To Obtain And Forward Requested Reports To The Division After Investigation	250	500	1000
2413 G 3	The Device Owner Or Licensed Establishment Shall Notify The Division, In Writing, Of Any Damage To Or Theft From A Device	250	500	1000
2413 H 2	The Completed Device Transfer Report Shall Be Submitted To The Division Within Five Business Days	200	400	600
2413 H 3	No Devices Which Are Permanently Removed From Service Shall Have A Validation Decal Displayed On It	200	400	600
<b>Gaming Establishments</b>				
2415 B 2	All Type 5 Establishments With 20 Or More Devices Shall Provide Video Surveillance Approved By Division	500	1000	Admin Action
2415 C 1	Device Groupings Shall Be Physically Located Within The Licensed Establishment	250	500	1000
2415 C 2	No Device Shall Be Placed Closer Than Twelve Inches To Any Other Device (May Be Placed Back To Back)	100	200	300
2415 D 1	No Licensed Establishment Shall Be Altered Or Renovated Dealing With Devices Without Division Approval	500	1000	Admin Action
2415 D 2	Any Licensed Establishment That Allows Mixed Patronage Shall Have Devices In Designated Areas With A Partition	250	500	1000
2415 D 3a	A Licensed Establishment That Is Connected To Another Business Shall Have A Door Between Them That Automatically Closes	250	500	1000
2415 D 3b	A Licensed Establishment That Is Connected To Another Business Shall Have A Separate Outside Entrance	250	500	1000
2415 D 3c	A Licensed Establishment That Is Connected To Another Business Shall Keep Records Separate	250	500	1000
2415 D 3d	A Licensed Establishment That Is Connected To Another Business Shall Have Personnel That Are Solely Employed By The Licensed Establishment	250	500	1000
2415 D 4	The Parking Area Of A Truck Stop Facility Shall Be In Compliance With All Federal, State And Local Laws	250	500	1000
<b>Code Of Conduct Of Licensee</b>				
2417 A 1	All Licensees And Permittees Shall Comply With All Applicable Federal, State, And Local Laws And Regulations	250	500	1000

Regulation Number	Violation Description	1st	2nd	3rd
2417 B 4	All Licensees And Permittees Shall Have A Continuing Duty To Notify The Division Of Any Fact, Event, Occurrence, Matter Or Action That May Affect The Conduct Of Gaming. Such Notification Shall Be Made Within Ten Calendar Days Regarding But Not Limited To The Following: Non-Disqualifying Misdemeanor Arrest Disqualifying Misdemeanor Or Felony Arrest Death (Owner/Member/Officer/Revenue Recipient) Marriage/Divorce/Death Of Spouse Stock Or Interest Transfer Company Structure Change (Conversion/Merger Etc) Company Management Structure Change	250 500 250 250 500 500 500	250 1000 250 Admin Action Admin Action Admin Action	250 Admin Action 250 Admin Action Admin Action Admin Action
2417 C 1 I	Failure To Respond In A Timely Manner To Communications From The Division Or Board (10-Day Letters)	500	1000	2000
<b>Investigations</b>				
2419 B 2	All Licensees Shall Make Available To The Division Records Requested	500	1000	Admin Action
2419 B 3b	All Devices Shall Have, At All Times, The Proper Validation Decal Affixed To The Device And Maintenance Log Books Properly Secured And Available For Inspection	250	500	Admin Action
<b>Miscellaneous</b>				
27:301.B (12) A	Expired Atc Permits Renewed During Investigation Or Adjudication Establishments Primarily Engaged In The Retail Sale Of Prepared Foods And Alcoholic Beverages Must Possess A Valid Class A-General Retail Permit Or A Class A-Restaurant Permit	2500 Plus 500 For Each 30-Day (Or Portion Of A 30-Day) Period		
27:311 F (2)	A Non-Sufficient Fund Return	250	500	1000 Or Admin Action
27:311 K 4 (B)	Required Annual Fees Submitted After July First, But On Or Before July Thirty-First	Type 1 Or 2 License 250	Type 3 – 8 License 500	
27:311 K 4 (C)	Required Annual Fees Submitted After July Thirty-First, But On Or Before August Thirty-First	Type 1 Or 2 License 500	Type 3 – 8 License 1000	
27:311 L	A Complete Renewal Application Filed Within 30 Calendar Days After The Expiration Of The License	500		
27:319	Allowing Underage Patron To Play Video Gaming Device	1000	1000	Revo- Cation

C. A violation shall be considered a second or subsequent violation in accordance with the provisions of R.S. 27:308.1(D)(1)(b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Louisiana Gaming Control Board. LR 36:

#### Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:IX.2407 and creating §2424. It is accordingly concluded that amending LAC 42:IX.2407 and creating §2424 would appear to no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children.;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### Small Business Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded

that there will be no adverse impact on small business if LAC 42:XI.2407, and 2424 are amended.

#### Public Comments

All interested persons may contact Jonathon Wagner, Attorney General's Gaming Division, telephone (225) 326-6500, and may submit comments relative to this proposed Rule, through August 10, 2010, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

Dane K. Morgan  
Chairman

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Video Draw Poker

##### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will have no implementation costs to state or local governmental units. This rule codifies existing practices by creating a penalty schedule for violations, and by repealing a pending rule (§2407 D.17) that would conflict with penalty amounts for advertising violations.

##### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed changes will not create any foreseeable impact on revenue collections for either the state or local

governmental units. This rule codifies existing practices and does not establish new penalty amounts.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed administrative rule changes will have no significant costs and/or economic benefit to industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed administrative rule changes will have no effect on competition and employment.

Dane K. Morgan  
Chairman  
1007#061

Robert E. Hosse  
Staff Director  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Revenue  
Policy Services Division**

Application of Net Operating Losses  
Carryover to Otherwise Closed Years  
(LAC 61:I.1125)

Under authority of R.S. 47:287.86 and 1511 and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1125 to provide for the application of net operating losses to otherwise closed years.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Department of Revenue—Taxed Collected and Administered by the Secretary of Revenue**

**Chapter 11. Corporation Income Tax**

**§1125. Application of Net Operating Losses Carryover to Otherwise Closed Years**

A. The Louisiana Department of Revenue will follow the position of the Internal Revenue Service set out in Revenue Ruling 81-88 when determining whether a net operating loss (NOL) carryback should be applied against the income claimed on the taxpayer's return or the income that should have been reported.

B. In determining the amount of an overpayment of income tax from an NOL carryback that may be refunded or credited:

1. The taxable income of the carryback year for which the prescriptive period has otherwise run should not be reduced by the amount of an unclaimed deduction or by the amount of an item of income reported in error.

2. However, an adjustment should be taken into account if it would increase the income in the year to which the net operating loss is carried back and the increase in income should be applied as a setoff against the net operating loss carryback.

C. Examples

1. A calendar year 100% Louisiana corporate taxpayer has an NOL of \$165,000 for Year 3. Its taxable income before the federal income tax (FIT) deduction for each of its two earlier years is as follows: Year 2-\$150,000 and Year 1-\$100,000. On April 1, Year 6, taxpayer files a claim for

refund for Year 1 (its first year of operation) and Year 2 due to the Year 3 NOL carryback. In September, Year 6, a LDR audit of Year 1 through Year 4 shows that taxpayer failed to claim a \$20,000 deduction in Year 1. The prescriptive period for filing a refund claim for this unclaimed deduction expired on December 31, Year 5. Year 1 income (as originally reported) of \$100,000 is not reduced by the unclaimed deduction for purposes of computing Year 1's pre-modification taxable income, and the unclaimed deduction isn't taken into account in determining the Year 3 NOL to be carried to Year 2. Thus the taxpayer is entitled to a full refund or credit of all its Year 1 tax paid on the Year 1 reported income of \$100,000, and the Year 3 NOL carried to Year 2 is \$65,000 (i.e. Year 3 NOL of \$165,000 less Year 1 reported income of \$100,000).

2. A calendar year 100% Louisiana corporate taxpayer has an NOL of \$165,000 for Year 3. Its taxable income before the FIT deduction for each of its two earlier years is as follows: Year 2-\$150,000 and Year 1-\$100,000. On April 1, Year 6, taxpayer files a claim for refund for Year 1 (its first year of operation) and Year 2 due to the Year 3 NOL carryback. In September, Year 6, a LDR audit of Year 1 through Year 4 shows that taxpayer failed to report \$20,000 of income in Year 1. Year 1 income (as originally reported) of \$100,000 is increased by the unreported income for purposes of computing Year 1's pre-modification taxable income, and the unreported income is taken into account in determining the Year 3 NOL to be carried to Year 2. Thus the taxpayer is entitled to a full refund or credit of all its Year 1 tax paid on the Year 1 actual income of \$120,000, and the Year 3 NOL carried to Year 2 is \$45,000 (i.e. Year 3 NOL of \$165,000 less Year 1 actual income of \$120,000).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.86 and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:

**Family Impact Statement**

The proposed adoption of LAC 61:I.1125 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D).

**Small Business Statement**

In accordance with R.S. 49:965.6, the Department of Revenue has conducted a Regulatory Flexibility Analysis and found that the proposed adoption of this Rule will have negligible impact on small businesses.

**Public Comments**

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to Vanessa LaFleur, Director, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be submitted no later than 4:30 p.m., Tuesday, August 24, 2010.

**Public Hearing**

A public hearing will be held on Wednesday, August 25, 2010, at 10:00 a.m. in the River Room located on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Application of Net Operating Losses  
Carryover to Otherwise Closed Years**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This proposed rule will have no cost or savings impact to state or local governments. Any incidental costs will be absorbed in the Department of Revenue's existing budget.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This proposed rule will only impact when an unclaimed refund has prescribed and a net operating loss is carried back to the period in which the refund would have been claimed. The effect of this rule on state general fund revenue is indeterminable, and is expected to be a minimal decrease in income tax collections. This situation is not common or typical and this rule will serve to clarify and provide consistency to the way the Department calculates tax liabilities or refunds.

This proposed rule will have no impact on local revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The rule will only benefit a few taxpayers in rare situations. The extent of the economic benefit is indeterminable, and is expected to be minimal.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This rule is not expected to have any effect on competition and employment

Cynthia Bridges  
Secretary  
1007#051

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**General and WMA Turkey Hunting Regulations  
(LAC 76:XIX.113)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the turkey rules and regulations for the 2011 season.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part XIX. Hunting and WMA Regulations**

**Chapter 1. Resident Game Hunting Season**

**§113. General and WMA Turkey Hunting Regulations**

A. General Regulations. Only gobblers (male turkeys) may be taken. Taking of hen (female) turkeys, including bearded hens, is prohibited. Still hunting only. Use of dogs, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and approved archery equipment but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited. The running of coyote with dogs is prohibited in all turkey hunting areas during the open turkey season. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means

placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closures. No person hunting turkeys more than 200 yards from a baited area will be in violation of the turkey baiting regulation.

**B. Tags**

1. Prior to hunting turkeys, all turkey hunters, regardless of age or license status, must obtain turkey tags and have them in their possession while turkey hunting. Immediately upon killing a turkey, hunters must attach a carcass tag to the turkey before it is moved from the site of the kill and must document the kill on the turkey harvest report card. The date of kill and parish of kill must be recorded on the carcass tag. The tag must remain attached to the turkey while kept at camp or while it is transported to the domicile of the hunter or to a cold storage facility. Hunters who keep the carcass or meat at a camp must also comply with game possession tag regulations. Within 72 hours of the kill, the hunter must report the kill and record the validation number on the turkey harvest report card. Hunters may report turkeys by calling the validation phone number or using the validation web site.

2. Turkey hunters purchasing licenses by phone or internet will be given an authorization number and a LDWF identification number that will serve as their license and tags until the physical license and tags arrive by mail. Turkey hunters who have purchased a license with tags, but have not yet received their physical license and tags, must immediately tag their kill with a possession tag before moving it from the site of the kill. The authorization number and LDWF identification number must be recorded on the possession tag. Hunters must retain documentation of any turkeys killed and upon receiving their physical tags and harvest report card, validate their kill as required in these regulations. The tags for turkeys killed prior to receiving the physical tags must be removed from the turkey harvest report card and discarded.

3. Tags removed from the turkey harvest report card prior to killing a turkey are no longer valid and if lost will not be replaced. Duplicate tags and turkey harvest report cards are available to replace lost report cards and attached tags. Hunters will be charged a fee for duplicate turkey harvest report cards and tags. Hunters that have killed a turkey prior to losing their remaining tag and harvest report card must remove and discard the duplicate tag to account for the original tag that was used and validated. Hunters must record any previously validated turkey on the duplicate turkey harvest report card.

C. Possession of Live Wild Turkeys. No person shall take live wild turkeys or their eggs from the wild. No person shall possess captive live wild turkeys, (*Meleagris gallopavo silvestris*, *M. g. osceola*, *M. g. intermedia*, *M. g. merriami*,

*M. g. mexicana*) or their eggs, regardless of origin, without a valid game breeder license. No pen-raised turkeys from within or without the state shall be liberated (released) within the state.

D. Statewide Youth and Physically Challenged Season Regulations. Only youths 17 years of age or younger or hunters possessing a Physically Challenged Hunter Permit with wheelchair classification may hunt. Youth must possess a hunter safety certification or proof of successful completion of a hunter safety course. Youths must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for youth younger than 16 years of age. Adults accompanying youth may not possess a firearm or bow. Youths may possess only one firearm or bow while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. EXCEPT properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Only one gobbler per day may be taken and any gobbler taken by the hunter during this special season counts towards their season bag limit of 2.

E. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

F. Turkey Hunting Area Descriptions

1. Area A

- a. All of the following parishes are open:
  - i. Beauregard;
  - ii. Bienville;
  - iii. Claiborne (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
  - iv. East Baton Rouge;
  - v. East Feliciana;
  - vi. Grant (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
  - vii. Jackson;
  - viii. LaSalle;
  - ix. Lincoln;
  - x. Livingston;
  - xi. Natchitoches (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
  - xii. Rapides (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
  - xiii. Sabine;
  - xiv. St. Helena;
  - xv. Tangipahoa;
  - xvi. Union;
  - xvii. Vernon (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
  - xviii. West Baton Rouge;
  - xix. West Feliciana (including Racourci Island);
  - xx. Winn (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
- b. Portions of the following parishes are also open:
  - i. Allen: North of LA 104, west of LA 26 south of junction of LA 104 to US 190, north of US 190 east of Kinder, west of US 165 south of Kinder;
  - ii. Avoyelles: That portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from

Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the West Atchafalaya Basin Protection levee southward;

- iii. Calcasieu: North of I-10;
- iv. Caldwell: West of Ouachita River southward to Catahoula Parish line;
- v. Catahoula: South and west of the Ouachita River from the Caldwell Parish line southward to LA 8 at Harrisonburg, north and west of LA 8 from Harrisonburg to the LaSalle Parish line. ALSO that portion lying east of LA 15;
- vi. Evangeline: North and west of LA 115, north of LA 106 west of LA 115 to US 167, west of US 167 south to LA 10, north of LA 10 west of US 167 to LA 13, west of LA 13 south of LA 10 to Mamou and north of LA 104 west of Mamou;
- vii. Franklin: That portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;
- viii. Iberville: West of LA 1. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;
- ix. Jefferson Davis: North of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;
- x. Madison: That portion lying east of US 65 from East Carroll Parish line to US 80 and south of US 80. Also, all lands east of the main channel of the Mississippi River;
- xi. Morehouse: West of US 165 from the Arkansas line to the junction of LA 140 at Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165 at Bastrop, south of US 165 to junction of LA 3051 (Grabault Road) south of LA 3051 to junction of LA 138, west of LA 138 to junction of LA 134, north of LA 134 to the Ouachita Parish line;
- xii. Ouachita: All west of the Ouachita River. That portion east of the Ouachita River lying north of US 80 to LA 139, west of LA 139 to LA 134, north of LA 134 to the Morehouse parish line, south of the Morehouse parish line, and east of the Ouachita River.
- xiii. Pointe Coupee: All of the parish except that portion bounded on the north by LA Hwy. 1, from Innis to the junction of LA Hwy 417, on the west by LA Hwy. 417 southward toward McCrea, on the south by LA Hwy. 417 from McCrea to its junction with Delhi Lane, then by Delhi Lane to LA Hwy. 418, then LA Hwy. 418 northward to LA Hwy. 1 at Innis. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.
- xiv. Richland: That portion south of US 80 and east of LA 17;
- xv. St. Landry: That portion bounded on the west by the West Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River. EXCEPTION: the Indian Bayou Area, see Federal Lands Hunting Schedule for Indian Bayou Area dates;
- xvi. Upper St. Martin: All within the Atchafalaya Basin. Exceptions: Sherburne WMA and Indian Bayou Area, see WMA Turkey Hunting Schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see Federal Lands Hunting Schedule for Indian Bayou dates;

xvii. Tensas: That portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands east of the main channel of the Mississippi River;

2. Area B

a. All of the following parishes are open:

- i. Caddo;
- ii. DeSoto;
- iii. Red River;
- iv. St. Tammany;
- v. Washington.

b. Portions of the following parishes are open:

- i. Ascension: All east of the Mississippi River;
- ii. Bossier: All open except that portion bounded on the north by I-20, on the west by LA 164, on the south by LA 164, and on the east by the Webster Parish Line;
- iii. East Carroll: East of US 65 from Arkansas state line to Madison Parish line;
- iv. Iberville: All east of the Mississippi River;
- v. Webster: All open except that portion bounded on the north by I-20, on the east by U.S. 371, on the south by LA 164, and on the west by the Bossier Parish line (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);

3. Area C

a. All of the following parishes are open:

- i. Concordia;

b. Portions of the following parishes are open:

- i. Caldwell: All east of the Ouachita River;
- ii. Catahoula: All of the parish EXCEPT for that portion located in Area A;
- iii. Franklin: West of LA 17 from the Richland Parish line southward to Winnsboro, west of LA 15 southward to the Catahoula Parish line;
- iv. Iberia: East of the West Atchafalaya Basin Protection Levee.
- v. Richland: West of LA 17 from Franklin Parish line to Ringle Road, south of Ringle Road to Ferguson Road, south of Ferguson Road to Little Road, south of Little Road to Big Creek, east of Big Creek to Franklin Parish line;
- vi. Tensas: East and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

4. Turkey season dates on Wildlife Management Areas, National Wildlife Refuges, Kisatchie National Forest and U.S. Army Corps of Engineers land located within Areas A, B, and C may vary from the season set for the parish in which they are located. Seasons for these lands are specified in LAC 76:XIX.115.

G. WMA Turkey Hunting Regulations

1. WMAs with youth turkey hunts are closed to all activities except turkey hunting by authorized youth hunt participants and fishing on the day(s) of the youth hunt.

2. Self-Clearing Permits: All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunter's possession while hunting. Upon completion of each days

hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

3. Lottery Hunts: All or portions of some WMA seasons are designated as lottery hunts and are restricted to hunters selected by pre-application lottery. To apply for these lottery hunts, a hunter must submit a completed official application form to the Baton Rouge office by the deadline printed on the application. A non-refundable fee of \$5 must be sent with each application. Applicants for WMA youth hunts must be 17 years of age or younger and at least 8 years old on the day of the hunt. Applicants may submit only one application and may be selected for only one spring WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Hunters must abide by self-clearing permit requirements. Hunters chosen for WMA lottery hunts may be accompanied by one person. The person accompanying a lottery hunter shall not possess a firearm/bow or take a turkey, and must remain within a distance that allows normal voice contact with the lottery hunter at all times. Youths chosen for special youth only hunts may be assigned a guide on the day of the hunt provided that guides are available. One person may accompany the youth and guide, but may not hunt.

4. WMA Physically Challenged Hunt (Wheelchair Confined): Open only to hunters with a Physically Challenged Hunter Permit with wheelchair classification. During this hunt, ATVs may be used by hunters on all designated ATV trails in accordance with the Physically Challenged Hunter Permit. Hunters must abide by self-clearing permit requirements.

5. Rules Specific to Certain WMAs:

a. Bens Creek: No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

b. Sandy Hollow: No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

c. Sherburne: All turkeys taken must be checked at the WMA headquarters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2375 (November 2002), LR 29:2512 (November 2003), LR 30:2874 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:2469 (November 2007), LR 35:91 (January 2009), LR 35:2478 (November 2009), LR 36:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

**Family Impact Statement**

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission

hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

**Public Comments**

Interested persons may submit written comments on the proposed Rule to Mr. Kenneth Ribbeck, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000 no later than 4:30 p.m., September 8, 2010.

Stephen J. Oats  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: General and WMA  
Turkey Hunting Regulations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

No increase or decrease in costs to state or local governmental units associated with implementing the proposed rule is anticipated.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The effect on revenue collections of state or local governmental units are anticipated to be negligible from the proposed action.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule modifies the list of turkey hunting areas that will be open for turkey hunting in Louisiana beginning with the 2011 turkey season. Louisiana turkey hunters will benefit from having an additional area in Iberia parish to hunt turkeys. Turkey hunters generate income to retail outlets, landowners, and commercial operations through hunting lease payments and purchases of outdoor related equipment and associated items (food, fuel, clothing, shotgun shells, etc.). Some businesses and landowners in and near the newly opened area may experience a slight increase in revenue from economic activities associated with turkey hunting.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be little or no effect on competition and employment in the public and private sectors resulting from the proposed action.

Lois Azzarello  
Undersecretary  
1007#064

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Turkey Seasons (LAC 76:XIX.115)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the turkey dates and limits for the 2011 season.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part XIX. Hunting and WMA Regulations**

**Chapter 1. Resident Game Hunting Season**

**§115. Turkey Hunting Areas, Seasons, and Bag Limits**

A. Daily limit is one gobbler. Season limit is two gobblers. Turkeys taken on WMAs are part of the season bag limit. Only one turkey may be taken during spring WMA lottery hunts.

B. Turkey season will open in designated areas on the Saturday nearest March 22. The Area A turkey season will be 30 consecutive days in length, the Area B turkey season will be 23 consecutive days in length, and the Area C turkey season will be 16 consecutive days in length. Wildlife Management Areas, National Forests, National Wildlife Refuges, and U.S. Army Corps of Engineers land may vary from this framework. Deviation from this framework may occur in those years when the Saturday nearest March 22 falls the day before Easter.

C. Statewide Youth Turkey and Physically Challenged Season on private lands shall be the weekend prior to the statewide turkey season.

D. Only those Wildlife Management Areas listed herein are open to turkey hunting. All other Wildlife Management Areas are closed.

**E. 2011 Turkey Hunting Schedule**

Area	Season Dates
A	March 19 - April 17
B	March 19 - April 10
C	March 19 - April 3
Private Lands Youth and Physically Challenged Hunter (Wheelchair Confined) Hunt	March 12-13

**F. Wildlife Management Area Turkey Hunting Schedule**

WMA	Non-Lottery Hunt Dates	Lottery Hunt Dates
Attakapas	March 19 - 27	None
Bayou Macon	None	April 9-10
Bens Creek	March 19 - April 3	None
Big Lake	March 19 - April 3	None
Bodcau	March 19 - April 3	None
Boeuf	March 19 - 27	None
Clear Creek	March 28 - April 17	March 19 - 20 March 26 - 27
Camp Beauregard	March 19 - 27	None
Dewey Wills	None	April 9 - 10 April 16 - 17
Fort Polk	March 19 - April 17	None
Grassy Lake	March 19 - 27	None
Hutchinson Creek	March 19 - April 17	None
Jackson-Bienville	March 19 - April 3	None
Lake Ramsey	March 19 - April 3	None
Little River	March 19 - April 3	None
Loggy Bayou	None	April 8 - 10
Peason Ridge	March 19 - April 17	None
Red River	March 19 - April 3	None

WMA	Non-Lottery Hunt Dates	Lottery Hunt Dates
Sabine	None	March 19 - 21 April 1-3
Sandy Hollow	March 19 – April 3	None
Sherburne	March 24 - 27	March 19-20 March 21-23
Sicily Island	None	March 19-21 March 22-24 March 25-27 March 28 – April 3
Tangipahoa Parish School Board	March 19 – April 17	None
Three Rivers	March 19 – April 3	None
Tunica Hills South Tract	April 4-10	March 19-20 March 26-27 April 2-3
Tunica Hills North Tract	April 4-10	March 19-20 March 26-27 April 2-3
Union	None	April 15-17
Walnut Hills	March 19 – April 17	None
West Bay	None	March 19-20 March 26-27

**G. Wildlife Management Area Lottery Youth Hunts**

WMA	Lottery Youth Hunt Date
Attakapas	March 12
Bens Creek	March 12
Big Lake	March 12
Bodcau	March 12
Clear Creek	March 12
Fort Polk/Peason Ridge/ Calcasieu Ranger Dist.	March 12
Grassy Lake	March 12
Jackson-Bienville	March 12
Loggy Bayou	April 2
Pearl River	April 2
Pomme de Terre	March 12
Sherburne	March 12-13
Sicily Island	March 12
Spring Bayou	March 12
Thistlethwaite	April 2
Tunica Hills	March 12
Union	April 2
West Bay	March 12

**H. Non-Lottery Youth Hunts**

1. Bodcau WMA will be open April 9-10 (only youths may hunt).

2. Jackson-Bienville WMA will be open April 9-10 (only youths may hunt).

**I. Wildlife Management Area Physically Challenged (wheelchair confined) Hunt**

1. Jackson-Bienville WMA will be open April 11-17 to holders of valid Physically Challenged Hunter (Wheelchair Classification) Permits.

**J. Federal Lands Turkey Hunting Schedule**

1. Kisatchie National Forest (KNF) turkey hunting schedule: Caney Ranger District, March 19 - April 3; all remaining KNF lands, March 19 - April 10 (including Catahoula and Red Dirt National Wildlife Management Preserves).

2. U.S. Army Corps of Engineers turkey hunting schedule: Indian Bayou Area, March 12-13 physically challenged lottery only hunt, lottery hunt only on March 19-20 and March 21-23, non-lottery hunt March 24-27. Old River Control and Lock Areas, March 19 - April 3.

3. National Wildlife Refuges: Bogue Chitto NWR, March 19 - April 10; Lake Ophelia NWR, March 19 - April 3 hunt ends at 12:00 p.m. each day; Tensas NWR, March 12-13 (youth only), March 19 - April 3; Upper Ouachita NWR, March 12 (youth lottery only).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:115.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2376 (November 2002), LR 29:2513 (November 2003), LR 30:2875 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:2470 (November 2007), LR 35:90 (January 2009), LR 35:2481 (November 2009), LR 36:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

**Family Impact Statement**

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

**Public Comments**

Interested persons may submit written comments on the proposed rule to Mr. Kenneth Ribbeck, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000 no later than 4:30 p.m., September 8, 2010.

Stephen J. Oats  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES  
RULE TITLE: Turkey Seasons**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Establishment of turkey hunting regulations is an annual process that is carried out using existing staff and funding levels. No increase or decrease in costs to state or local governmental units associated with implementing the proposed rule is anticipated.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections from the sale of wild turkey licenses in Fiscal Year 2011 are estimated to be \$60,605.00. Failure to adopt this rule would result in no turkey hunting seasons for 2011 and the subsequent loss of state revenue collections from the sale of turkey licenses. In addition, loss of tax revenues of an undeterminable amount may occur to both state and local

governmental units due to foregone sales of supplies and equipment used to hunt turkeys.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Approximately 18,000 resident and nonresident sportsmen and an undeterminable number of sporting good distributors, retail outlets, and landowners are directly affected by the proposed rule. Turkey hunters in Louisiana generate income to retail outlets, landowners, and commercial businesses through hunting lease payments and purchase of related outdoor equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if turkey hunting seasons, rules, and regulations are not established and promulgated. The actual amount of this impact cannot be estimated at this time. Resident and nonresident turkey hunters will be required to purchase a Louisiana wild turkey license in addition to their basic and big game hunting licenses, provided they are not exempt from purchasing a turkey license or do not already possess a license

that includes wild turkey hunting privileges. The costs incurred by turkey hunters for the purchase of wild turkey licenses is \$5.50 for residents, non-resident active military, non-resident students and non-resident Louisiana natives, and \$20.50 for other non-residents.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Recreational hunting supports 13,084 full and part-time jobs in Louisiana, a portion of which are directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. No effect on competition in the public and private sectors is anticipated as a result of the proposed action.

Lois Azzarello  
Undersecretary  
1007#065

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office

# Policy and Procedure Memoranda

## POLICY AND PROCEDURE MEMORANDA

### Office of the Governor Division of Administration Office of State Travel

General Travel—PPM 49  
(LAC 4:V.Chapter 15)

The following shows the amended text in PPM 49. This supersedes all prior issues of PPM 49 published in the Louisiana Register. This revised PPM 49 also supersedes and replaces PPM 49 which had been designated as LAC 4:V.Chapter 15.

#### Title 4

#### ADMINISTRATION

#### Part V. Policy and Procedure Memoranda

#### Chapter 15. General Travel Regulations—PPM Number 49

##### §1501. Authorization and Legal Basis

A. In accordance with the authority vested in the Commissioner of Administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the state general travel regulations, effective July 1, 2010. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

Please note that when political subdivisions are required to follow PPM49 for any pass through money issued by the State of Louisiana, any and all required approvals must be sent to the correct appointing authority, not to the Commissioner of Administration.

B. Legal Basis (R.S. 39:231.B)—"The commissioner, with the approval of the governor, shall prescribe rules defining the conditions under which each of various forms of transportation may be used by state officers and employees and used by them in the discharge of the duties of their respective offices and positions in the state service and he shall define the conditions under which allowances will be granted for all other classes of traveling expenses and the maximum amount allowable for expenses of each class."

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), republished LR

33:1314 (July 2007), amended LR 34:1299 (July 2008), LR 35:1192 (July 2009).

##### §1502. Definitions

A. For the purposes of this PPM, the following words have the meaning indicated.

##### *Authorized Persons*—

a. advisors, consultants, contractors and other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services in accordance with R.S. 39:1481 et seq.;

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided;

c. the department head or his designee is allowed to deem persons as an authorized traveler for official state business only.

NOTE: College/University Students must be deemed authorized travelers to be reimbursed for state business purposes. A centralized file must be kept containing all of these approvals.

*Conference/Convention*—is herein defined as a meeting (other than routine) for a specific purpose and/or objective. Non-routine meetings can be defined as a seminar, conference, convention, or training. Documentation required is a formal agenda, program, letter of invitation, or registration fee. Participation as an exhibiting vendor in an exhibit /trade show also qualifies as a conference. For a hotel to qualify for conference rate lodging it requires that the hotel is hosting or is in "conjunction with hosting" the meeting. In the event the designated conference hotel(s) have no room available, a department head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel.

*Contract Airfare*—these airfares are only for use by authorized travelers on official state business with competitive bid airfares that are fully refundable, non-penalty tickets. Contract price is firm for last seat availability.

*Controlled Billed Account (CBA)*—credit account issued in an agency's name (no plastic card issued). These accounts are direct liabilities of the state and are paid by each agency. CBA accounts are controlled through an authorized approver(s) to provide a means to purchase airfare and registration only. Each department head determines the extent of the account's use.

*Corporate Travel Card*—credit cards issued in an employee's name to be used for official business travel expenses. Corporate Travel Cards are individual liability cards, which must be paid in full each month by the cardholder. Charges to these accounts are never the liability of the state.

*Emergency Travel*—Each department shall establish internal procedures for authorizing travel in emergency situations. Approval may be obtained after the fact from the Commissioner of Administration with appropriate

documentation, under extraordinary circumstances when PPM49 regulations cannot be followed but where the best interests of the state requires that travel be undertaken.

*Extended Stays*—~~of~~ any assignment made for a period of 31 or more consecutive days at a place other than the official domicile.

*Higher Education Entities*—entities listed under Schedule 19 Higher Education of the General Appropriations Bill.

*In-State Travel*—all travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

*International Travel*—all travel to destinations outside the 50 United States, District of Columbia, Puerto Rico and the Virgin Islands, American Samoa, Guam.

*Lowest Logical Airfare*—airfares available to the public. In general, these types of airfares are non-refundable, penalty tickets. Penalties could include restrictions such as advanced purchase requirements, weekend stays, etc. Prices will increase as seats are sold. When schedule changes are required for lowest logical tickets, penalty fees are added.

*Official Domicile*—every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile:

a. except where fixed by law, official domicile of an officer or employee assigned to an office shall be, at a minimum, the city limits in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as parish or region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace);

b. a traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence;

c. the official domicile of a person located in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interest of the agency and not for the convenience of the person.

*Out-of-State Travel*—travel to any of the other 49 states plus District of Columbia, Puerto Rico and the Virgin Islands, American Samoa, Guam.

*Passport*—a document identifying an individual as a citizen of a specific country and attesting to his or her identity and ability to travel freely.

*Per Diem*—a flat rate paid in lieu of travel reimbursement for people on extended stays.

*Receipts/Document Requirements*—supporting documentation must be retained according to record retention laws. It shall be at the discretion of each agency to determine where the receipts/documents will be maintained.

*State Employee*—employees below the level of state officer

*State Officer*—

a. state elected officials;

b. department head as defined by Title 36 of the Louisiana Revised Statutes (secretary, deputy secretary, undersecretary, assistant secretary, and the equivalent positions in higher education and the office of elected officials).

*Suburb*—an immediate or adjacent location (overflow of the city) to the higher cost areas which would be within approximately 30 miles of the highest cost area.

*Temporary Assignment*—any assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

*Travel Period*—a period of time between the time of departure and the time of return.

*Travel Routes*—the most direct traveled route must be used by official state travelers.

*Travel Scholarships*—if any type of scholarship for travel is offered/received by a state employee, it is the agency/employee's responsibility to receive/comply with all ethic laws/requirements. See R.S. 42:1123

*Traveler*—a state officer, state employee, or authorized person when performing authorized travel.

*Visa*—a document or, more frequently, a stamp in a passport authorizing the bearer to visit a country for specific purposes and for a specific length of time.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), republished LR 33:1314 (July 2007), amended LR 34:1299 (July 2008), LR 35:1192 (July 2009).

### **§1503. General Specifications**

#### **A. Department Policies**

1. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the Commissioner of Administration. Three copies of such regulations shall be submitted for prior review and approval by the Commissioner of Administration. One of the copies shall highlight any exceptions /deviations to PPM-49.

2. Department and agency heads will take whatever action necessary to minimize all travel to carry on the department mission.

3. Contracted Travel Services. The state has contracted for travel agency services which use is mandatory for airfares unless exemptions have been granted by the Division of Administration prior to purchasing airfare tickets. The contracted travel agency has an online booking system which can be used by all travelers for booking airfare, hotel and car reservations. Use of the online booking system can drastically reduce the cost paid per transaction and state travelers are strongly encouraged to utilize.

4. When a state agency enters into a contract with an out-of-state public entity, the out-of-state public entity may have the authority to conduct any related travel in accordance with their published travel regulations.

5. Authorization to Travel

a. All non-routine travel must be authorized and approved in writing by the head of the department, board, or commission from whose funds the traveler is paid. A department head may delegate this authority in writing to one designated person. Additional persons within a department may be designated with approval from the Commissioner of Administration. A file shall be maintained on all approved travel authorizations.

b. Annual travel authorizations are no longer a mandatory requirement of PPM-49 for routine travel, however, an agency can continue to utilize this process if determined to be in your department's best interest. A travel authorization is still required for non-routine meetings, conferences and out-of-state travel.

#### B. Funds for Travel Expenses

1. Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses that cannot be covered by the corporate travel card. Advances of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the Travel voucher covering the related travel, not later than the fifteenth day of the month following the completion of travel.

2. Exemptions: At the agency's discretion, cash advances may be allowed for:

a. employees whose salary is less than \$30,000/year;

b. employees who accompany and/or are responsible for students on group or client travel;

c. new employees who are infrequent travelers or have not had time to apply for and receive the state's corporate travel card;

d. employees traveling for extended periods, defined as 31 or more consecutive days;

e. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;

f. advanced ticket / lodging purchase;

g. registration for seminars, conferences, and conventions;

h. incidental costs not covered by the corporate travel card, i.e., registration fees; conference fees may be submitted on a preliminary request for reimbursement when paid in advance;

i. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. Passenger airfare receipts are required for reimbursement;

j. employees who infrequently travel or travelers that incur significant out-of-pocket cash expenditures.

3. Expenses Incurred on State Business. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed herein.

4. CBA (Controlled Billed Account) issued in an agency's name is to be used for airfare and registration. Other credit cards issued in the name of the state agency are not to be used for the purpose of securing transportation, lodging, meals, or telephone and telegraph service, unless

prior written permission has been obtained from the Commissioner of Administration.

5. No Reimbursement When No Cost Incurred by Traveler. This includes but is not limited to reimbursements for any lodging and/or meals furnished at a state institution or other state agency, or furnished by any other party at no cost to the traveler. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

#### C. Claims for Reimbursement

1. All claims for reimbursement for travel shall be submitted on state Form BA-12, unless exception has been granted by the Commissioner of Administration, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. The purpose for extra and unusual travel must be stated in the space provided on the front of the form. In all cases the date and hour of departure from and return to domicile must be shown.

2. Except where the cost of air transportation, conference, or seminar is invoiced directly to the agency/department, all expenses incurred on any official trip shall be paid by the traveler and his travel voucher shall show all such expenses in detail to the end that the total cost of the trip shall be reflected by the travel voucher. If the cost of air transportation is paid directly by the agency/department, a notation will be indicated on the travel voucher indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler's copy of the passenger receipt is required.

3. In all cases, and under any travel status, cost of meals and lodging shall be paid by the traveler and claimed on the travel voucher for reimbursement, and not charged to the state department, unless otherwise authorized by the department head or his designee. A centralized file must be kept containing all of these approvals.

4. Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least \$10 is due. Department heads at their discretion may make the 30 day submittal mandatory on a department wide basis.

5. Any person who submits a claim pursuant to these regulations and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim, which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to severe disciplinary action as well as being criminally and civilly liable within the provisions of state law.

6. Agencies are required to reimburse travel in an expeditious manner. In no case shall reimbursements require more than 30 days to process from receipt of complete, proper travel documentation.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

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1989), LR 16:965 (November 1990), LR 26:1253 (June 2000), LR 27:803 (June 2001), LR 28:1126 (June 2002), LR 29:823 (June 2003), LR 30:1112 (June 2004), LR 31:1184 (June 2005), LR 33:966 (June 2007), republished LR 33:1315 (July 2007), amended LR 34:1300 (July 2008), republished LR 35:1193 (July 2009).

#### **§1504. Methods of Transportation**

A. Cost-Effective Transportation. The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, employee's salary, cost of operation of a vehicle, cost and availability of common carrier services, etc. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

##### **B. Air**

1. Private Owned or Charter Planes. Before travel by privately-owned or by chartered aircraft is authorized for individual's travel by a department head, the traveler shall certify that: 1) at least two hours of working time will be saved by such travel; and 2) no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose.

a. Chartering a privately owned aircraft must be in accordance with the Procurement Code.

b. Reimbursement for use of a chartered or unchartered privately owned aircraft under the above guidelines will be made on the following basis:

i. at the rate of \$1.07 cents per mile; or

ii. at the lesser of coach economy airfare or state contract rate. If there are extenuating circumstances requiring reimbursement for other than listed above, approval must be granted by the Commissioner of Administration.

c. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigation shall be documented and readily available in the department's travel reimbursement files. Optimum utilization will be the responsibility of the department head.

2. Commercial Airlines. (receipts required) All state travelers are to purchase commercial airline tickets through the state contracted travel agency (see front cover for contract travel agency contact numbers). This requirement is mandatory unless approval is granted from the State Travel Office. (In the event travelers seeks approval to go outside the travel agency, they shall submit their request through their agency travel program administrator, who will determine if the request should be submitted to the Office of State Travel.) While the use of the contract travel agency is mandatory, the state traveler has options for the type of airfare ticket purchased. This office strongly encourages use of lowest logical airfares, not state contract fares. The traveler should ask the contracted travel agency to check for the lowest logical rates based on his/her personal needs. The state always supports purchasing the "best value" ticket. Therefore once all rates are received, the traveler must compare cost and options to determine which fare would be the "best value" for their trip. To make this determination, the traveler must ask the question: Is there a likelihood my itinerary could change or be cancelled? Depending on the response, the traveler must determine if the costs associated with changing a non-refundable ticket (usually around \$150)

would still be the best value. Another factor to assist having a travel agent search the lowest fare is advising the agent if traveler is flexible in either your dates or time of travel. By informing the travel agent of your "window of time" for your departure and return will assist them to search for the best price.

a. Travelers are to seek airfares allowing an ample amount of lead time prior to departure date. The lead-time should be at least 14 days in advance of travel dates to ensure the lowest fares are available. Generally, the earlier a ticket is purchased, provides for lower airfares.

b. State contract airfare tickets are not available for personal, companion or spouse travel. This is a requirement of the airlines and our failure to monitor the use of these contract airfares could cause their cancellation. Therefore, persons booking tickets for non-official business using contract rates will be subject to disciplinary action as well as payment of the difference between contract airfare and full coach fares.

c. Commercial air travel will not be reimbursed in excess of lowest logical or state contract air rate when it has been determined to be the best value (receipts required). The difference between contract or coach/economy class rates and first class or business class rates will be paid by the traveler. Upgrades at the expense of the state are not permitted, without the approval of the Commissioner of Administration. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline indicating this fact. The certification is required for travel reimbursement.

d. The policy regarding airfare penalties is the state will pay for the airfare and/or penalty incurred for a change in plans or cancellation when the change or cancellation is required by the state or other unavoidable situations approved by the agency's department head. Justification for the change or cancellation by the traveler's department head is required on the travel voucher.

e. When an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 10 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel voucher.

f. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline charge of searching and refunding lost tickets will be charged to the traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by the employee.

g. If companion fares are purchased for a state employee and non-state employee, the reimbursement to the state employee will be the amount of the lowest logical fare.

h. Traveler is to use the lowest logical airfare/state contract whether the plane is a prop or a jet.

i. Employees may retain promotional items, including frequent flyer miles, earned on official state travel. However, if an employee makes travel arrangements that favor a preferred airline/supplier to receive promotional items/points and this circumvents purchasing the most economical means of travel, they are in violation of this

travel policy. Costs for travel arrangements subject to this violation are non-reimbursable.

j. When making airline reservations for a conference, let the travel agent know that certain airlines have been designated as the official carrier for the conference. In many instances, the conference registration form specifies that certain airlines have been designated as the official carrier offering discount rates, if available. If so, giving this information to our contracted agencies could result in them securing that rate for your travel.

C. Motor Vehicle. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid U.S. driver's license. Safety restraints shall be used by the driver and passengers of vehicles. All accidents, major and minor, shall be reported first to the local police department or appropriate law enforcement agency. An accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and returned to ORM, together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

Any persons who are not official state employees must sign a Hold Harmless Agreement Form, located at Office of State Travel's website, <http://www.doa.louisiana.gov/osp/travel/forms.htm> prior to riding in or driving a state-owned vehicle or rental vehicle on behalf of the State. Each agency is responsible in ensuring that this along with any other necessary documents are completed and made part of the travel file prior to travel dates.

#### 1. State-Owned Vehicles

a. No person may be authorized to operate or travel in a fleet vehicle unless that person is a classified or unclassified employee of the state of Louisiana; any duly appointed member of a state board, commission, or advisory council; or any other person who has received specific approval from the department head or his designee to operate or travel in a fleet vehicle on official state business. A centralized file must be kept containing all of these approvals. Students shall not be authorized to drive state-owned or rented vehicles for use on official state business if not employed by the state.

b. Travelers in state-owned automobiles who purchase needed fuel, repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Reimbursements require a receipt for regular unleaded gasoline, or diesel when applicable. This applies for both state owned vehicles and rental vehicles, as mid-grade, super, plus or premium gasoline is typically not necessary. Each agency/department shall familiarize itself with the existence of such allowances and/or contracts and location of vendors by contacting the Purchasing Office, Division of Administration. State-owned credit cards will not be issued to travelers for use in the operation of privately owned vehicles.

c. State-owned vehicles may be used for out-of-state travel only if permission of the department head has been given prior to departure. If a state-owned vehicle is to

be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files.

d. Unauthorized persons should not be transported in state vehicles. Approval of exceptions to this policy may be made by the traveler's supervisor if he determines that it is official state business and the best interest of the state will be served and if the passenger (or passenger's guardian) signs a hold harmless agreement form acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

e. If a state vehicle is needed/requested to be brought to the home of a state employee overnight, then the agency/traveler should ensure it is in accordance with requirements outlined in R.S. 39:361-364.

#### 2. Personally Owned Vehicles

a. When two or more persons travel in the same personally owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

b. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage shall be reimbursable on the basis of no more than \$0.48 per mile per the following:

i. For official in-state business travel:

(a). employee should utilize a state vehicle when available;

(b). employee may rent a vehicle from the Enterprise Rent-A-Car's State Motor Pool Rental Contract, if state vehicle is not available; or

(c). if an employee elects to use his/her personal vehicle, reimbursement may not exceed a maximum of 99 miles per round trip and/or day at 48 cents per mile.

c. Mileage shall be computed by one of the following options:

i. on the basis of odometer readings from point of origin to point of return;

ii. by using a website mileage calculator or a published software package for calculating mileage such as Tripmaker, How Far Is It, Mapquest, etc.. Employee is to print the page indicating mileage and attach it with his/her travel expense form.

d. An employee shall never receive any benefit from not living in his/her official domicile. In computing reimbursable mileage to an authorized travel destination from an employee's residence outside the official domicile, the employee is always to claim the lesser of the miles from their official domicile or from their residence. If an employee is leaving on a non-work day or leaving significantly before or after work hours, the department head may determine to pay the actual mileage from the employee's residence not to exceed a maximum of 99 miles per round trip and/or day at 48 cents per mile. See Subsection C.2.b.

e. The department head or his designee may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for

attendance to infrequent or irregular meetings, etc., within the city limits where his/her office is located, the employee may be reimbursed for mileage only not to exceed a maximum of 99 miles per round trip and/or day at 48 cents per mile. See Subsection C.2.b.

f. Reimbursements will be allowed on the basis of \$0.48 per mile, not to exceed a maximum of 99 miles per round trip and/or day, to travel between a common carrier/terminal and the employees point of departure, i.e., home, office, etc., whichever is appropriate and in the best interest of the state. See Subsection C.2.b.

g. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel for the travelers convenience, the traveler will be reimbursed for in-route expenses on the basis of \$0.48 per mile only. The total cost of the mileage may not exceed the cost of travel by using the lesser of 1) lowest logical airfare or 2) state contract airfare obtained at least 14 days prior to the trip departure date. The reimbursement would be limited to one lowest logical airfare quote, not the number of persons traveling in the vehicle. The traveler is personally responsible for any other expenses in-route to and from destination which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take his/her personally owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses. File should be justified accordingly.

h. When a traveler is required to regularly use his/her personally owned vehicle for agency activities, the agency head may request authorization from the Commissioner of Administration for a lump sum allowance for transportation or reimbursement for transportation (mileage). Request for lump sum allowance must be accompanied by a detailed account of routine travel listing exact mileage for each such route and justification why a rental vehicle is not feasible. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Request for lump sum allowance shall be granted for periods not to exceed one fiscal year.

i. The traveler shall be required to pay all operating expenses of his/her personal vehicle including fuel, repairs, and insurance.

### 3. Rented Motor Vehicles (Receipts Required)

a. In-State Vehicle Rental. The state has contracted rentals based out of Louisiana through Enterprise Rent-A-Car's State Motor Pool Rental Contract for business travel which applies to all State of Louisiana employees and/or authorized travelers traveling on official state business.

i. A department head/higher education entity head, or his designee, may give an approval to bypass the contract, on a case-by-case basis and/or program, group or internal division provided he/she documents the reason and maintain this justification in the file. A request for total agency/college/university exemption may be granted by the Commissioner of Administration. Requests for exemption must be accompanied by a detailed explanation as to why the contract is not feasible. If an exemption from the program is granted by the department head or Commissioner

of Administration as stated above, then the employee, contractor, board or commission member will not be required to rent a vehicle and may receive actual mileage reimbursement up to .48 cents per mile.

ii. Members of boards and commissions are not required to utilize the state motor pool rental contract. They are, however, strongly urged to do so when a cost benefit analysis indicates potential savings to the state.

iii. State contractors required to follow PPM-49 by the terms of their contracts may, but are not required to, use the state motor pool rental contract.

iv. Although exemptions may be granted to the state motor pool rental contract, all must adhere to the current mileage reimbursement rate of no more than 48 cents per mile.

v. State owned vehicle or rental from Enterprise Rent-A-Car State Motor Pool Rental Contract, when state vehicle is not available, should be used by any employee and/or authorized traveler who is eligible to receive the mileage allowance who plans to travel 100 miles or more in a trip.

vi. For trips of less than 100 miles employees should utilize a state vehicle when available, may utilize their own vehicle and receive mileage reimbursement not to exceed a maximum of 99 miles per round trip and/or day at 48 cents per mile or may rent a vehicle from Enterprise Rent-A-Car's State Motor Pool Rental Contract.

vii. Students shall not be authorized to drive state-owned or rented vehicles for use on official state business if not employed by the state.

ix. Reservations should not be made at an airport location for daily routine travel, as this will add additional unnecessary cost to your rentals.

x. An employee can reserve a vehicle in one of several ways using the State's Corporate ID Number NA1403 or an agency's direct billing account number and company name or pin number - STA accessing the state travel website at [http://www.enterprise.com/car\\_rental/home.do](http://www.enterprise.com/car_rental/home.do).

(a). Reserve by calling an Enterprise local rental branch directly (during business hours).

(b). By calling 1-800-Rent-A-Car (24 hours/day).

NOTE: Reservations are to be made 24 hours in advance for guaranteed vehicle class/size

b. Payments for rentals made only through the State Motor Pool Rental Contract may be made using the "LaCarte" purchasing card, an employee's corporate travel card or by direct bill to the agency. This will be an agency decision as to the form of payment chosen. If direct bill is chosen, agency must set up account billing information with Enterprise. An account may be established by contacting Joseph Rosenfeld at 225-445-7250, [joseph.g.rosenfeld@erac.com](mailto:joseph.g.rosenfeld@erac.com)

c. Out-of-State Vehicle Rental. For vehicle rentals outside of Louisiana, the state does not provide contracts. However, the state has received price offers that will be available from multiple vehicle rental companies listed in the Louisiana Travel Guide. When a traveler is approved to rent a vehicle for out-of-state use, he/she may select a vendor listed in the guide or seek a lower rate.

d. Approvals. Written approval of the department head or his designee prior to departure is required for the rental of vehicles, however, if your agency chooses, approval

may be handled on an annual basis if duties require frequent rentals. Additional/Special approval is required, from the department head or his/her designee, for rental of any vehicle above the "full size" category.

e. Vehicle Rental Size. Only the cost of a compact or mid/intermediate model is reimbursable, unless 1) non-availability is documented, 2) the vehicle will be used to transport more than two persons or 3) the cost of a larger vehicle, for out-of-state rentals only, is no more than the rental rate for a compact or mid/intermediate. When a larger vehicle is an option as stated in 1) or 2) above, the upgraded vehicle shall be the next smallest size and lowest price necessary to accommodate the number of persons traveling.

i. A department head or his designee may, on a case-by-case basis, authorize a larger sized vehicle provided detailed justification is made in the employee's file. Such justification could include, but is not limited to, specific medical requirements when supported by a doctor's recommendation.

ii. Any rental vehicle not covered in the state motor pool rental contract should be bid in accordance with proper purchasing rules and regulations.

f. Personal Rental. Personal use of a rental vehicle during a rental for official state business is not allowed.

g. Gasoline (Receipts Required). Reimbursements require a receipt for regular unleaded gasoline, or diesel when applicable. This applies for both state owned vehicles and rental vehicles, as mid-grade, super, plus or premium gasoline is typically not necessary. An employee should gasoline with the state's fuel card or other credit card at reasonable cost from a local gasoline station prior to returning the rental. Pre-paid fuel options are only to be allowed with prior approval from the department head, when the traveler can document that the pre-purchased amount was necessary and that the amount charged by the rental company is reasonable in relation to local gasoline cost.

h. Insurance for Vehicle Rentals within the 50 United States. Insurance billed by car rental companies is not reimbursable. All insurance coverage for rental vehicles, other than Enterprise's Rent-A-Car's State Motor Pool Rental Contract, is provided by the Office of Risk Management. Should a collision occur while on official state business, the accident should be reported to the Office of Risk Management and rental company. Any damage involving a third party must be reported to appropriate law enforcement entity to have a police report generated.

i. CDW/ Damage Waiver Insurance and \$1 Million Liability Protection Coverage is included in the State Motor Pool Rental Contract price through Enterprise Rent-A-Car. No other insurance will be reimbursed when renting, except when renting outside the 50 United States, see §1504.c.3.i. There should be no other charges added to the base price, unless the traveler reserves the vehicle at an airport location (which is not recommended for daily routine travel). Reimbursable amounts would then be submitted at the end of the trip on a travel expense form.

i. Insurance for Vehicles Rentals outside the 50 United States. (receipts required) The Office of Risk Management (ORM) recommends that the appropriate insurance (liability and physical damage) provided through the car rental company be purchased when the traveler is renting a vehicle outside the 50 United States. With the

approval of the department head required insurance costs may be reimbursed for travel outside the 50 United States only.

1. The following are insurance packages available by rental vehicle companies which are reimbursable:

a. Collision Damage Waiver (CDW)—should a collision occur while on official state business, the cost of the deductible should be paid by the traveler and a reimbursement claimed on a travel expense voucher. The accident should also be reported to the Office of Risk Management;

b. Loss Damage Waiver (LDW);

c. Auto tow Protection (ATP)—\*approval of department head;

d. Supplementary Liability Insurance (SLI)—\*if required by the rental company;

e. Theft and/or Super Theft Protection (coverage of contents lost during a theft or fire)—\*if required by the car rental company;

f. vehicle coverage for attempted theft or partial damage due to fire, \*if required by the car rental company

2. The following are some of the insurance packages available by rental vehicle companies that are not reimbursable:

a. personal accident insurance (PAC);

b. emergency sickness protection (ESP).

3. Navigation equipment (GPS System), rented not purchased, may only be reimbursed if an employee justifies the need for such equipment and with prior approval of the department head or his designee.

D. Public Ground Transportation. The cost of public ground transportation such as buses, subways, airport shuttle/limousines, and taxis are reimbursable when the expenses are incurred as part of approved state travel. Airport Shuttle/limousines and taxi reimbursements, including tip, requires a receipts to account for total daily amount claimed. A driver's tip for shuttles/limousines and taxis may be given and must not exceed 15 percent of total charge. Amount of tip must be included on receipt received from driver/company. All other forms of public ground transportation are limited to \$15 per day without a receipt, claims in excess of \$15 per day requires a receipt. At the agency's discretion, the department head may implement an agency wide policy requiring receipts for other public transportation requests less than \$15 per day.

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#### **§1505. State Issued Travel Credit Cards/CBA Accounts**

A. Use. The State Travel Office contracts for an official state corporate travel card to form one source of payment for travel. If a supervisor recommends an employee be issued a state travel card, the employee should complete an

application through their agency travel program administrator.

1. An employee's corporate travel card or agency CBA (Controlled Billed Accounts) must be used to purchase contract airfare. This is a mandatory requirement by the airlines in order to continue to receive discounted, non-penalty state contract airline tickets.

2. An employee's corporate travel card may also be used to purchase lowest logical airfare tickets and other travel related expenses such as food and lodging, but it is not mandatory.

3. The employee's corporate travel card is for official state travel business purposes only. Personal use on the state travel card may result in disciplinary action.

#### B. Liability

1. The corporate travel card is the liability of the employee and not the state. Each monthly statement balance is due in full to the card-issuing bank. Travel card accounts that become delinquent are subject to being suspended or revoked. Those accounts will not be reinstated. The state will have no tolerance to assist those employees who abuse their travel card privileges. Employees with delinquent payment may have their travel privileges revoked and/or subject to other disciplinary action.

2. The department/agency is responsible for cancellation of corporate travel cards for those employees terminating/retiring state service.

3. The department/agency's travel program administrator is responsible for completing a maintenance form to transfer an employee from one state agency to another. The employee may keep the same account number, but the agency change must be reported to the bank.

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### §1506. Lodging and Meals

#### A. Eligibility

1. Official Domicile/Temporary Assignment. Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless exception is granted in accordance with these regulations. Temporary assignment will be deemed to have ceased after a period of 31 calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the 31 day period has been previously secured from the Commissioner of Administration.

2. Extended Stays. For travel assignments approved by the Commissioner of Administration involving duty for extended periods (31 or more consecutive days) at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported

by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel.

#### 3. Single Day Travel

a. Meals are not eligible for reimbursements on single day travel. This means that when an authorized traveler of the state is in travel status where no overnight stay is required, no meals are eligible for reimbursement. Each department head or their designees are to determine the reasonableness of when an over night stay is justified.

b. However, the department head will be allowed to authorize single day meal reimbursements on a case-by-case basis or by type(s) of single day travel when it is determined to be in the best interest of the department. In those cases the department must keep the approvals in the travel file and must be responsible to take appropriate steps to report the reimbursement as wages to the employee.

c. If a department head or his/her designee determines that single day meals will be provided for, they must follow the following allowances. To receive any meal reimbursement on single day travel, an employee must be in travel status for a minimum of 12 hours.

i. The maximum allowance for meal reimbursement for single day travel will be \$30.

(a). Breakfast and Lunch: (\$20) The 12 hours travel duration must begin at or before 6 a.m.

(b). Lunch: (\$12) Requires 12 hours duration in travel status.

(c). Lunch and Dinner: (\$30) The 12 hour travel duration must end at or after 8 p.m.

4. Travel with Over Night Stay. Travelers may be reimbursed for meals according to the following schedule.

a. Breakfast—When travel begins at/or before 6 a.m. on the first day of travel or extends beyond 9 a.m. on the last day of travel, and for any intervening days.

b. Lunch—When travel begins at/or before 10 a.m. on the first day of travel or extends beyond 2 p.m. on the last day of travel, and for any intervening days.

c. Dinner—When travel begins at/or before 4 p.m. on the first day of travel or extends beyond 8 p.m. on the last day of travel, and for any intervening days.

5. Alcohol—reimbursement for alcohol is prohibited.

#### B. Exceptions

1. Routine Lodging Overage Allowances (Receipts required). Department head or his/her designee has the authority to approve actual costs for routine lodging provisions on a case by case basis, not to exceed 50 percent over PPM-49 current listed rates. Justification must be maintained in the file to show that attempts were made with hotels in the area to receive the state/best rate. In areas where the governor has declared an emergency, a department head or his/her designee will have the authority to approve actual routine lodging provisions on a case by case basis not to exceed 75 percent over PPM-49 current listed rates. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files.

2. Actual Expenses for State Officers (Itemized receipts or other supporting documents are required for each item claimed). State officers and others so authorized by statute (see definition under *state officer*) or individual exception will be reimbursed on an actual expense basis for meals and lodging except in cases where other provisions for reimbursement have been made by statute. Request shall not be extravagant and will be reasonable in relation to the purpose of travel. State officers entitled to actual expense reimbursements are only exempt from meals and lodging rates; they are subject to the time frames and all other requirements as listed in the travel regulations.

C. Meals and Lodging Allowances

1. Meal Allowance—includes Tax and Tips. Receipts are not required for routine meals within these allowances. Number of meals claimed must be shown on travel voucher. For meal rates, the inclusion of suburbs (see definition of *suburb*) shall be determined by the department head on a case-by-case basis. See tier pricing below. Partial meals such as continental breakfast or airline meals are not considered meals. If meals of state officials on actual exceed these allowances, receipts are required. See §1506.B.2

2. Routine Lodging Allowance. Employees will be reimbursed lodging rate, plus tax and any mandatory surcharge. (Receipts are required) For lodging rates, the inclusion of suburbs (see definition of *suburb*) shall be determined by the department head on a case-by-case basis. When two or more employees on official state business share a lodging room, the state will reimburse the actual cost of the room; subject to a maximum amount allowed for an individual traveler times the number of employees. Department head approval must be provided to allow lodging expenses to be direct billed to an agency.

3. Conference Lodging Allowance. Employees will be reimbursed lodging rate, plus tax and any mandatory surcharge. (Receipts are required) Department head or his/her designee has the authority to approve the actual cost of conference lodging, for a single occupancy standard room, when the traveler is staying at the designated conference hotel. If there are multiple designated conference hotels, the lowest designated conference hotel should be utilized, if available. In the event the designated conference hotel(s) have no room availability, a department head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel. This allowance does not include agency hosted conference lodging allowances; see §1510 for these allowances.

4. No reimbursements are allowed for functions not relating to a conference, i.e., tours, dances, golf tournaments, etc.

TIER II	
Breakfast	\$10
Lunch	\$14
Dinner	\$24
Total	\$48
Lodging Area	Routine Lodging
New Orleans -Orleans, St. Bernard, Jefferson and Plaquemines Parishes (July 1-Sept.30)	\$104
New Orleans – Orleans, St. Bernard, Jefferson and Plaquemines Parishes (Oct 1– June30)	\$133
Out-Of-State (Except Cities Listed in Tier III & IV)	\$85

TIER III	
Breakfast	\$12
Lunch	\$16
Dinner	\$24
Total	\$52
Lodging Area	Routine Lodging
Austin,TX; Atlanta, GA; Cleveland, OH; Dallas/Fort Worth, TX; Denver, CO; Detroit, MI; Ft. Lauderdale, FL; Galveston, TX; Hartford, CT; Houston, TX; Kansas City, MO; Las Vegas, NV; Los Angeles, CA; Miami, FL; Minneapolis/St. Paul, MN; Nashville, TN; Oakland, CA; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, ME; Portland, OR, Sacramento, CA; San Antonio, TX; San Diego, CA; St. Louis, MO; Tampa, FL; Wilmington, DE; all of Alaska or Hawaii; Puerto Rico; Virgin Island; American Samoa; Guam	\$135

TIER IV	
Breakfast	\$13
Lunch	\$18
Dinner	\$29
Total	\$60
Lodging Area	Routine Lodging
Baltimore, MD; San Francisco, CA; Seattle, WA	\$175
Alexandria, VA; Arlington,VA; Boston, MA; New York City, NY; Washington DC	\$225
Chicago, IL and International Cities	\$200

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**§1507. Parking and Related Parking Expenses**

A. Parking at the Baton Rouge Airport. The state's current contract rate is \$3.50 per day (no receipts required) for parking in the indoor parking garage as well as the outside, fenced parking lot at the airport. Documentation required to receive the contract price is either a state ID or a

TIER I	
Breakfast	\$8
Lunch	\$12
Dinner	\$18
Total	\$38
Lodging Area	Routine Lodging
In-State Cities (except as listed)	\$70
Baton Rouge-EBR	\$103
Covington/Slidell-St.Tammany	\$99
Lake Charles-Calcasieu	\$82
Lafayette	\$89

travel itinerary issued by the state contracted travel agency designating the employee is on "official state business". At the agency discretion an employee may be paid actual expenses up to \$5 per day with a receipt.

B. Parking at the New Orleans Airport. The state's current contract rate is \$6 per day and \$36 weekly at Park 'N Fly (no receipts required). Documentation required to receive the contract price is your agency issued photo I.D., a business card, state issued corporate card or a travel itinerary issued by the state contracted travel agency designating the employee is on "official state business". At the agency discretion an employee may be paid actual expenses up to \$8 per day with a receipt.

C. Travelers using motor vehicles on official state business will be reimbursed for reasonable storage fees, for all other parking, including airport parking except as listed in Subsections A and B above, ferry fares, and road and bridge tolls. For each transaction over \$5, a receipt is required.

D. Tips for valet parking not to exceed, \$2 per day.

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**§1508. Reimbursement for Other Expenses (These charges are while in travel status only.)**

A. The following expenses incidental to travel may be reimbursed:

1. Communications Expenses

a. For official state business—all costs (receipts required).

b. For domestic overnight travel—up to \$3 in personal calls upon arrival at each destination and up to \$3 for personal calls every second night after the first night if the travel extends several days.

c. For international travel—up to \$10 in personal calls upon arrival at each destination and up to \$10 for personal calls every second night after the first night if the travel extends several days.

d. Internet access charges for official state business from hotels or other travel locations are treated the same as business telephone charges. A department may implement a stricter policy for reimbursement of Internet charges. (Receipts required)

B. Charges for Storage and Handling of State Equipment (Receipts required)

C. Baggage Tips

1. Hotel Allowances—not to exceed \$3 tip per hotel check-in and \$3 tip per hotel checkout, if applicable.

2. Airport Allowances—not to exceed \$3 tip for airport outbound departure trip and \$3 tip for inbound departure trip.

D. Luggage Allowances (Receipt Required). A department head or his designee may approve reimbursement to a traveler for airline charges for first

checked bag for a business trip of five days or less and for a second checked bag for a 6-10 day business trip and/or any additional baggage which is business related and required by the department. The traveler must present a receipt to substantiate these charges.

1. Travelers will be reimbursed for excess baggage charges (overweight baggage) only in the following circumstances:

a. when traveling with heavy or bulky materials or equipment necessary for business;

b. the excess baggage consists of organization records or property.

E. Registration fees at conferences (meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head).

F. Laundry Services. Employees on travel for more than 7 days up to 14 days are eligible for \$20 of laundry services, and for more than 14 days up to 21 days an additional \$20 of laundry services, and so on. Receipts are required for reimbursement.

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**§1509. Special Meals**

A. Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement and where reimbursement is not available from another source.

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the state. This explicitly does not include normal visits, meetings, reviews, etc., by federal or local representatives.

2. Extraordinary situations are when state employees are required by their supervisor to work more than a 12-hour weekday or 6-hour weekend (when such are not normal working hours to meet crucial deadlines or to handle emergencies).

B. All special meals must have prior approval from the Commissioner of Administration or, for Higher Education, the entity head or his designee in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed one fiscal year with the exception in Subsection C, as follows.

C. A department head may authorize a special meal within allowable rates listed under Meals—Tier 1, to be served in conjunction with a working meeting of departmental staff.

D. In such cases, the department will report on a semi-annual basis to the Commissioner of Administration all special meal reimbursements made during the previous six

months. For Higher Education, these reports should be sent to the respective Institution of Higher Education management board. These reports must include, for each special meal, the name and title of the person receiving reimbursement, the name and title of each recipient, the cost of each meal and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Request to the commissioner for special meal authorization must include, under signature of the department head:

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;
2. clear justification of the necessity and appropriateness of the request;
3. names, official titles or affiliations of all persons for whom reimbursement of meal expenses is being requested;
4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the Commissioner of Administration to exceed this reimbursement limitation;
  - a. all of the following must be reviewed and approved by the department head or their designee prior to reimbursement:
    - i. detailed breakdown of all expenses incurred, with appropriate receipts(s);
    - ii. subtraction of cost of any alcoholic beverages;
    - iii. copy of prior written approval from the Commissioner of Administration or, for Higher Education, the entity head or his/her designee.

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**§1510. Agency Hosted Conferences**

A. State Sponsored Conferences. An agency must solicit three competitive quotes in accordance with the governor's Executive Order for small purchase.

B. Conference Lunch Allowance. Lunch direct billed to an agency in conjunction with an in-state sponsored conference is to be within the following rates plus mandated gratuity.

Lunch In-State excluding New Orleans	\$20
Lunch—New Orleans	\$25

i. Any other meals such as breakfast and dinner require special approval in accordance with PPM49 §1509. "Special Meal" and must have prior approval from the Commissioner of Administration or for Higher Education, the entity head or his/her designee.

C. Conference Refreshment Allowance. Cost for break allowances for meeting, conference or convention are to be within the following rates.

i. Refreshments shall not exceed \$4.50 per person, per morning and/or afternoon sessions. A mandated gratuity may be added if refreshments are being catered.

D. Conference Lodging Allowances. Lodging rates may not exceed \$20 above the current listed routine lodging rates listed for the area in which the conference is being held.

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**§1511. International Travel**

A. International travel must be approved by the Commissioner of Administration or, for Higher Education, the entity head or his designee prior to departure, unless specific authority for approval has been delegated to a department head. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate/date, meals, local transportation, etc.), and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

B. International travelers will be reimbursed the Tier IV area rates for meals and lodging, unless U.S. State Department rates are requested and authorized by the Commissioner of Administration prior to departure. Itemized receipts are required for reimbursement of meals and lodging claimed at the U.S. State Department rates.

C. It is the agency's decision, if justification is given, to allow state employees to be reimbursed for a VISA and/or immunizations when the traveler is traveling on behalf of the agency/university on official state business. However, it is not practice for the state to reimburse for a passport, therefore, passport reimbursements must be submitted to the department head for approval along with detailed justification as to why this reimbursement is being requested/approved.

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**§1512. Waivers**

A. The Commissioner of Administration may waive in writing any provision in these regulations when the best interest of the state will be served.

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Angele Davis  
Commissioner

0907#103

# Administrative Code Update

CUMULATIVE: JANUARY-JUNE 2010

LAC Title	Part.Section	Effect	Location LR 36 Month Page	LAC Title	Part.Section	Effect	Location LR 36 Month Page	
7	III.101,103	Amended	Mar. 464	33	V.10105,10117,10121	Amended	Mar. 545	
	III.301-315	Adopted	Mar. 464		VII.315,713	Amended	June 1239	
	III.301-337	Repealed	Feb. 231		XI.601,603,605,607,609,611	Adopted	Feb. 313	
	XIII.101,113,191,207	Amended	June 1220		XI.713	Amended	June 1239	
	XIII.222	Repealed	June 1220					
10	XII.301	Repealed	Feb. 316	41	III.101	Adopted	Feb. 316	
	XVII.901	Amended	June 1243					
13	I.2701,2703,2705,2709	Amended	Feb. 307	42	III.2521,2522,2523,2524,2525	Adopted	June 1268	
	I.2711,2713,2715	Amended	Feb. 307		III.2526	Adopted	June 1268	
	I.2707,2717	Adopted	Feb. 307		VII.2521,2523,2524	Repealed	June 1268	
	I.Chapter 35	Adopted	Mar. 474		VII.2707,2715,2723	Amended	May 1018	
	I.Chapter 37	Adopted	Apr. 750		IX.2521,2522,2523,2524	Repealed	June 1268	
III.1709	Amended	Jan. 51	IX.2707,2715,2717,2723	Amended	May 1018			
19	II.105,107,507,903	Amended	Jan. 51	43	VI.103,307	Amended	Feb. 326	
	IX.Chapters 1 and 3	Adopted	Mar. 471		XIX.313	Amended	June 1264	
	IX.Chapters 11 and 13	Adopted	Mar. 507		XIX.545	Amended	May 1017	
22	I.103	Amended	Mar. 525	46	XI.108	Amended	May 992	
	I.105	Amended	May 1017		XI.108,123,125,135,305,307	Amended	Apr. 756	
	I.107	Amended	Mar. 528		XI.108	Repromulgated	June 1242	
	I.109	Amended	Mar. 534		XI.111	Adopted	Apr. 756	
	I.319	Adopted	Mar. 533		XI.321,705,725,737	Amended	Apr. 756	
	I.331	Amended	Mar. 531		XXXIII.116	Amended	Jan. 63	
	I.339	Amended	June 1265		XXXIII.1713	Adopted	Jan. 63	
	I.2327	Repealed	Mar. 525		XLV.402,449	Amended	June 1243	
	III.4703	Amended	May 992		XLV.6504	Adopted	June 1243	
	XV.901-927	Adopted	May 993		XLV.8301,8303,8305,8307	Repealed	June 1243	
					XLV.8309,8311	Repealed	June 1243	
					XLVII.3341	Amended	June 1245	
					XLVII.3419	Amended	June 1244	
			XLVII.3515	Amended	June 1245			
			XLVII.3707	Adopted	Jan. 64			
			LIII.709	Adopted	Apr. 755			
			LIII.1123	Amended	Apr. 755			
			LIII.2523	Amended	Apr. 756			
			LIII.2901	Amended	Apr. 755			
			LVII.510	Adopted	Apr. 764			
			LIX.409	Amended	Jan. 72			
			LXI.1315,1501,2103	Amended	May 1033			
			LXIII.301,303,305,307,703	Amended	May 1005			
			LXIII.401,403,405,407,409	Repealed	May 1005			
			LXIII.411,413,415	Repealed	May 1005			
			LXIII.801,805,901,1001	Amended	May 1005			
			LXIII.1002,1103,1501,1503	Amended	May 1005			
			LXIII.1101	Amended	June 1246			
			LXX.Chapters 61-65	Amended	Mar. 493			
			LXX.Chapters 66-67	Repealed	Mar. 493			
			LXX.15001,15003,15005	Adopted	May 984			
			LXX.15201-15225	Adopted	May 984			
			LXXXV.403,409,413,811,1227	Amended	Feb. 319			
			XCI.105	Amended	Feb. 321			
			XCI.301,311	Amended	Feb. 322			
			XCI.303	Amended	June 1246			
			XCI.901	Adopted	Feb. 321			
				48	I.6867	Amended	May 1008	
					I.8807	Amended	Apr. 831	
					I.9303	Amended	Mar. 513	
					I.Chapter 96	Adopted	Mar. 513	
					I.9727	Amended	May 1013	
					I.9729	Amended	Feb. 325	
					I.12501,12503,12505,12525	Amended	Feb. 322	
					I.12529	Amended	May 1009	
					I.Chapter 129	Adopted	Mar. 521	
					V.1101,1303,1305,1307	Amended	Jan. 68	
					V.1309,1311,1313,1315	Adopted	Jan. 68	
					XIII.17101,17103,17105	Amended	Apr. 759	
					XIII.17107,17109,17111	Amended	Apr. 759	
					XIII.17113,17115,17117	Amended	Apr. 759	
					XIII.17119,17121,17123	Amended	Apr. 759	
					XIII.17125	Amended	Apr. 759	
					XXV.Chapter 5	Adopted	June 1255	
33	I.3905,3931	Amended	June 1241	50	II.101,105,107,109,111,115	Amended	May 1014	
	I.3913	Repealed	June 1239		II.501-511	Amended	May 1010	
	I.3915,3917,3923,3925	Amended	June 1239		II.10146,10157	Repealed	May 1010	
	III.2201,2202	Amended	Jan. 59					
	III.109,1109,1901,1907,1909	Amended	June 1234					
III.4437	Amended	June 1234						

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50	V.301	Adopted	Jan. 66	61	I.1601-1613	Adopted	Jan. 52	
	V.954	Adopted	Mar. 519		I.1631-1639	Amended	Feb. 304	
	V.2501	Amended	Jan. 65		I.1701	Repealed	Feb. 329	
	V.2501	Amended	Mar. 512		I.4401	Amended	May 1028	
	V.5313,5513,5713,5913,6115	Amended	June 1250		III.1525	Adopted	June 1271	
	V.6105	Adopted	Jan. 67		III.2501	Amended	Jan. 72	
	VII.1305,1309	Amended	Feb. 325		III.2503	Adopted	Mar. 552	
	VII.1305,1309	Amended	Mar. 520		V.101,303,304,703,901,907	Amended	Apr. 765	
	IX.327,329,331	Amended	May 1016		V.1103,1305,1307,1503,2503	Amended	Apr. 765	
	IX.501	Adopted	Jan. 68		V.3101,3103,3105,3106,3107	Amended	Apr. 765	
	IX.15103	Repealed	June 1252		67	I.201,203,301,303,305,307,309	Adopted	Apr. 850
	IX.15111	Repealed	June 1251			III.2301,2509,2801	Amended	Jan. 74
	IX.15113	Adopted	June 1252			III.Chapter 51	Amended	Mar. 555
	IX.15131,15133,15135	Adopted	June 1251			III.5102,5103,5104,5109	Amended	June 1277
	XIII.8501,8503	Adopted	Mar. 512			III.5102,5103,5105,5107,5109	Amended	Apr. 844
	XIII.10301	Amended	June 1247			III.5121,7302,7303,7305,7355	Amended	Feb. 332
	XIX.4329,4334,4335,4337	Amended	June 1248			III.7302,7304,7355,7357	Amended	Apr. 847
	XV.401,403,405	Adopted	June 1249			III.7303,7359	Amended	Apr. 831
	XV.901	Amended	June 1249			III.7303,7359	Repromulgated	June 1272
	XV.6705	Amended	Apr. 759			III.7303,7359	Amended	June 1279
	XV.12917	Amended	June 1251			III.7357,7359,7361	Amended	Feb. 332
	XV.25701	Amended	June 1250			V.1103,1105,6503,6705,6955	Amended	Apr. 838
	XVII.301	Amended	Mar. 520			V.3501	Amended	Jan. 73
	XVII.501	Repromulgated	Mar. 521			V.Chapter 41	Adopted	Mar. 552
	XVII.501	Amended	June 1253			V.6101-6117,6901-6935	Repealed	Apr. 784
	XXI.11303,12101	Amended	Feb. 324			V.6103,6507,6703,6905,6955	Amended	Apr. 831
	XXI.13704	Adopted	Jan. 65			V.6103,6507,6703,6905,6955	Repromulgated	June 1272
XXI.14301	Amended	June 1247	V.6115,6709,6903,6905,6909	Amended		Feb. 329		
XXVII.325	Amended	June 1248	V.6301-6341,6501-6569	Amended		Apr. 784		
51	II.105	Repromulgated	June 1253	V.6701-6717		Amended	Apr. 784	
	XII.317	Adopted	Jan. 68	V.6709		Repromulgated	May 1029	
52	I.1318,1319,1320	Amended	Feb. 232	V.6953,6955,6959		Amended	Feb. 329	
	I.1322	Adopted	Feb. 232	V.6955		Repromulgated	May 1031	
	I.1703	Adopted	Feb. 304	V.7101-7123		Adopted	Apr. 784	
55	I.Chapter 15	Amended	Mar. 550	V.7107		Adopted	Apr. 838	
	I.1913	Amended	June 1270	76		III.337	Adopted	June 1280
	I.1947	Amended	Mar. 546			V.127	Amended	Jan. 74
	I.Chapter 31	Adopted	Mar. 536		V.131	Adopted	Apr. 852	
	V.2701,2703,2705,2707	Amended	May 1020		VII.199	Amended	June 1280	
	V.2713,2715,2717,2719	Amended	May 1020		VII.329	Amended	Jan. 77	
	V.2721,2723,2729,2735	Amended	May 1020		VII.367	Amended	Jan. 77	
	V.2725,2737	Adopted	May 1020		VII.373	Adopted	May 1034	
	VI.505,701,703,705,707,901	Repromulgated	Feb. 326					
	VI.903,905	Repromulgated	Feb. 326					
	VI.905	Adopted	June 1271					

# Potpourri

## POTPOURRI

### Department of Health and Hospitals Office of Public Health

Genetic Diseases Neonatal Screening  
and  
Pilot Testing for Severe Combined  
Immunodeficiency Syndrome

Notice is hereby given that the Department of Health and Hospitals, Office of Public Health, Genetics Diseases Program and the Office of Public Health Laboratory will begin pilot testing for Severe Combined Immunodeficiency Syndrome (SCID) and other immunodeficiency disorders.

House Concurrent Resolution 187 of the 2009 Regular Session of the Louisiana Legislature urged and requested the Department of Health and Hospitals to create a pilot screening program for the detection of Severe Combined Immunodeficiency Disorder (SCID) in newborns. SCID, commonly referred to as "bubble boy disease," is a genetic disorder that causes premature death, usually in the first few months of life, because affected children cannot stave off common childhood infections due to the lack of a functional immune system. With early detection, SCID can be cured with a bone marrow transplant. This treatment has a 95 percent success rate. Infants born with SCID and other immunodeficiency disorders, who are not diagnosed, may not live to see their first birthday without intervention and treatment.

This pilot testing will last approximately one year and a decision on whether to officially adopt this testing as part of the newborn heel stick screening panel will be made at that time. The legislature also requests that results of the pilot program be reported to the House and Senate Committees on Health and Welfare by April 1, 2011. Any questions concerning this notice may be also addressed to Cheryl L. Harris, Administrator for the DHH/OPH Genetic Diseases and Childhood Lead Poisoning Prevention Program by phone at (504) 219-4413 or by email at Cheryl.Harris@la.gov.

Alan Levine  
Secretary

1007#092

## POTPOURRI

### Department of Insurance Office of Health

Annual HIPAA Assessment Rate

Pursuant to Louisiana Revised Statute 22:1071(D)(2), the annual HIPAA assessment rate has been determined by the Department of Insurance to be .00026 percent.

James J. Donelon  
Commissioner

1007#002

## POTPOURRI

### Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
G.T. Petroleum Co., Inc.	Grosse Tete	L	Wilbert C.	001	148285
Hurricane Steel Industries	Section 28	L	E.F. Sims Estate	002	74466
N.A. Blizzard	Caddo Pine Island	S	Moore	001	52424
Marvin R. Legrand and R.K. Harrison	Wildcat-NO La. Shreveport Dist.	S	Earl M. Harter Et al fee	002	53037

James H. Welsh  
Commissioner

1007#046

## POTPOURRI

### Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 12 claims in the amount of \$44,978.70 were received for payment during the period June 1, 2010 - June 30, 2010.

There were 12 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2903.954	8924.719	Plaquemines
2909.787	9101.482	Terrebonne
2911.011	9027.676	Terrebonne
2911.517	9021.330	Terrebonne
2917.076	8959.799	Jefferson
2917.205	8952.038	Plaquemines
2918.379	9030.550	Terrebonne
2937.833	8933.087	St. Bernard
2938.600	9004.080	Jefferson
2949.414	8939.900	St. Bernard
2950.275	8932.946	St. Bernard
2951.809	9319.552	Cameron

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Robert D. Harper  
Secretary

1007#052

### **POTPOURRI**

#### **Department of Revenue Policy Services Division**

#### **Oil Spill Contingency Fee**

The Oil Spill Prevention and Response Act, R.S. 30:2451 et seq. provides a two cent per barrel oil spill contingency fee on crude oil at the time that it is transferred to or from vessel at a marine terminal within the state. Collection of the fee has been suspended since January 1, 2008. The State Treasurer has notified the Secretary of the Department of Revenue conditions exist to resume collection of the fee. Therefore, collection of the fee will resume July 1, 2010. Returns must be filed quarterly on or before the last day of the month following the calendar quarter to which the fee applies. The first return, covering the third quarter of 2010, is due by October 31, 2010.

Marine terminal operators within the state collect the fee from the crude oil owners when the oil is transferred to or from the vessel at the marine terminal. This fee is imposed on foreign and domestic oil transferred in the state, regardless of its origination or destination. The fee is only collected once on the same crude oil. If more than one marine terminal facility handles the same oil, the other marine terminal operators must obtain an affidavit certifying payment of the fee to the Department of Revenue from the marine terminal operator who paid the fee.

For the purposes of the Act, marine terminals are defined as "any terminal facility within the state of Louisiana used for transferring crude oil to or from vessels" and vessels are defined to include "every description of watercraft or other contrivance used or capable of being used as a means of transportation on water, whether self-propelled or otherwise, including barges."

The reinstatement of the oil spill contingency fee is being published as required by R.S. 30:2487(A). Questions concerning the oil spill contingency fee should be directed to the Special Programs Division, Severance Tax Section at (225) 219-7656, Option 3.

Cynthia Bridges  
Secretary

1007#007

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